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SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS

ON

CERTAIN TARIFF AND TRADE BILLS

VOLUME III

NOVEMBER 8, 1991

Printed for the use of the Committee on Ways and Means by its staff

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FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 9, 1991

SUBCOMMITTEE ON TRADE #15
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES REQUEST FOR WRITTEN COMMENTS ON CERTAIN TARIFF AND TRADE BILLS

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee on Trade is requesting written testimony for the record from all interested parties on the miscellaneous tariff and trade bills listed below.

A determination regarding further scheduling of public hearings or other Subcommittee action on any of these bills will not be made until after the close of this public comment period.

The tariff and trade bills on which written testimony will be received are:

Duty-Free Bills

H.R. 2688 (Mr. Dellums): Relating to the tariff treatment of certain cloth used in the fabrication of articles for use in public or private religious observances.

H.R. 3111 (Mr. Matsui): To provide permanent duty-free entry for certain magnetic video tape recordings.

Temporary Duty Suspension or Duty Reduction Bills

H.R. 2339 (Mr. Tallon): To suspend until January 1, 1995, the duties on Chromotropic Acid and Color Index Reactive Blue 224.

H.R. 2364 (Mr. Smith of New Jersey): To reduce until January 1, 1994, the duty on certain ceramic statues, statuettes, and hand-made flowers.

H.R. 2615 (Mr. Fields): To suspend until January 1, 1995, the duty on 2-Phosphonobutane-1,2,4-tricarboxylic acid and sodium salts.

H.R. 2769 (Mr. Walker): To suspend temporarily the duty on certain mounted television lenses.

H.R. 2962 (Mr. Andrews of Texas): To grant temporary duty-free treatment to fuel grade tertiary butyl alcohol.

H.R. 3110 (Mr. Leach): To suspend until January 1, 1995, the duty on certain agricultural sprayer parts.

Extension of Existing or Expired Suspension Bills

H.R. 2402 (Mr. Roe): To suspend temporarily the duty on 2,3,6-Trimethylphenol (TMP).

H.R. 2418 (Mr. Reed): To extend the existing suspension of duty on N-acetylsulfanilyl chloride.

H.R. 2713 (Mr. Coyne): To extend the existing suspension of duty on 1,5-naphthalene diisocyanate.

H.R. 2732 (Mr. Hefley): To extend until January 1, 1995, the suspension of duties on certain glass fibers.

Classification Bills

H.R. 2360 (Mr. Barton of Texas): Relating to the tariff treatment of pilocarpine hydrochloride.

H.R. 2847 (Mr. Bunning by request): To amend the Harmonized Tariff Schedule of the United States to restore the rate of duty applicable to man-made fiber felt fabric for technical uses that was in effect under the Tariff Schedules of the United States.

H.R. 3250 (Mr. Kildee): Regarding the tariff classification of motor vehicles for the transport of goods.

Customs and Other Nontariff Matters Bills

H.R. 2344 (Mr. Cox of California): To enable the filing of a Protest relating to certain Customs entries.

H.R. 2868 (Mr. Bustamante): Relating to the reliquidation of certain entries.

H.R. 2897 (Mr. Blaz): Relating to the tariff treatment of certain sweaters assembled in Guam.

H.R. 3004 (Mr. Beilenson): Relating to the reliquidation of certain entries.

H.R. 3028 (Mrs. Mink): To require that imports of fresh papaya meet all the requirements imposed on domestic fresh papaya.

Prohibition Bills

H.R. 2540 (Mr. Studds, Mr. Stark, Mr. McGrath, Mr. Matsui, et al): To promote the conservation of wild exotic birds by ending imports of exotic birds for the pet trade.

H.R. 2541 (Mr. Studds, Mr. Stark, et al): To promote the conservation of exotic wild birds by curtailing imports of wild caught birds for the pet trade.

H.R. 2634 (Mr. Staggers, Mr. Guarini, et al): To prohibit the importation of foreign-made flags of the United States of America.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Persons submitting written comments should submit six (6) copies by the close of business Monday, September 16, 1991, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

* * * * * * * * * * *

H.R. 2339

To suspend until January 1, 1995, the duties on Chromotropic Acid and Color Index Reactive Blue 224.

Mobay

A Bayer USA INC COMPANY

Dyes, Pigments and Organics Division

Mobay Corporation
Mobay Road
Pittsburgh, PA 15205-9741
Phone: 412 777-2000

August 29, 1991
RGK08387

The Honorable Sam Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
U. S. House of Representatives
1107 Longworth House Office Building
Washington, DC 20515

Dear Chairman Gibbons:

As a representative of Mobay Corporation, importer of chromotropic acid and manufacturer of Direct Blue 281, a dyestuff made from chromotropic acid and used by the paper industry, as well as importer of Reactive Blue 224, I would like to express our support of H.R. 2339, "To suspend until January 1, 1995, the duties on Chromotropic Acid and Color Index Reactive Blue 224."

1. Chromotropic Acid

   To our knowledge, there is no domestic producer or other importer of the product. We are the only manufacturer of Direct Blue 281, the product produced with chromotropic acid. Lower costs for this product allow us to support the paper industry in their effort to maintain competitiveness via imported paper products.

2. Color Index Reactive Blue 224

   This product offers a particular advantage versus other reactive royal blue dyes (e.g., C. I. Reactive Blue 19) used by the textile industry.

   Reactive dyestuffs represent the class of dyes that contribute most to color load in the waste water, as an average of 30-35% applied reactive dye ends up in the effluent.

   C.I. Reactive Blue 224 represents a new type of reactive dye that fixes in commonly used application methods 90-95%; i.e., only 5-10% of the applied dye ends up in the effluent. For this reason, we believe that this product offers special environment-related benefits warranting a suspension of duty.

We respectfully request positive consideration of H.R. 2339.

Sincerely,

Rolf Kuehni

Rolf G. Kuehni
Manager, Divisional Administration

RGK:NHP

BCC: MR. P. G. GEMEINHARDT
MR. E. E. LANSU

H.R. 2344

To enable the filing of a Protest relating to certain Customs entries.

No comments submitted.

H.R. 2360

Relating to the tariff treatment of pilocarpine hydrochloride.

No comments submitted.

H.R. 2364

To reduce until January 1, 1994, the duty on certain ceramic statues, statuettes, and hand-made flowers.

No comments submitted.

H.R. 2402

To suspend temporarily the duty on 2,3,6-Trimethylphenol (TMP).

No comments submitted.

H.R. 2418

To extend the existing suspension of duty on N-acetylsulfanilyl chloride.

No comments submitted.

H.R. 2540

To promote the conservation of wild exotic birds by ending imports of exotic birds for the pet trade.

No comments submitted.

H.R. 2541

To promote the conservation of exotic wild birds by curtailing imports of wild caught birds for the pet trade.

No comments submitted.

H.R. 2615

To suspend until January 1, 1995, the duty on 2-Phosphonobutane-1,2,4-tricarboxylic acid and sodium salts.

Mobay

A Bayer USA INC COMPANY

Mobay Corporation
Inorganic Chemicals Division

Mobay Road
Pittsburgh, PA 15205-9741
Phone: 412 777-2000

10 September 1991

The Honorable Sam Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
U. S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Gibbons:

I write on behalf of Mobay Corporation to give support to the temporary duty suspensions on the imported chemicals covered in H.R. 2615. These chemicals are 2-phosphonobutane-1,2,4-tricarboxylic acid (PBTC) and sodium salts thereof.

None of these chemicals are manufactured in the United States. Mobay imports them from its parent company, Bayer AG, of Germany for distribution and sales to U. S. customers.

Mobay Corporation has offered PBTC since the late 1970's to the U. S. market through its Inorganic Chemicals Division under the trade name Bayhibit AM and Bayhibit S for its salts.

Bayhibit AM / S are used as scale inhibitors for industrial cooling water treatment. Other uses include chelation and stabilization of industrial cleaning and bleaching products. These products demonstrate superiority over other phosphonates in their chlorine stability, their resistivity range that includes resistance to high temperatures, high pH, and high water hardness and their very good product stability behavior. Because of Bayhibit AM / S's superior performance in harsh conditions, they have found their way into specific niche markets where they outperform other phosphonates. One such niche market is the industrial cooling water sector. As more and more companies turn toward increased recycling of cooling water, where conditions are harsh, Bayhibit AM / S have been found to perform most effectively.

Bayhibit AM / S offer excellent environmental benefits to users over other phosphonates by delivering the lowest Phosphorous content to products and processes in which they are employed.

It is the future intention of Mobay Corporation to bring the manufacture of Bayhibit AM / S to the United States when sales volume and economics permit investment. A temporary relief from duty assessment will financially assist this process. The establishment of manufacturing in the United States will create new employment as well as new demand for products and services and thereby create a new base for Federal, State and Local tax revenues.
We ask the Committee to give favorable treatment to this matter by approving the proposed temporary suspensions of duties.

Thank you.

Sincerely,

Gary L. Hess

Gary L. Hess
Marketing Manager, Process Chemicals

JTM0991A10

H.R. 2634

To prohibit the importation of foreign-made flags of the United States of America.

DAVID J. STEINBERG

7216 Stafford Road
Alexandria, Virginia 22307
Tel: (703) 765-2472

September 14, 1991

Statement submitted to the Subcommittee on Trade of the House Committee on Ways and Means in opposition to H.R. 2634, a bill to prohibit imports of foreign-made flags of the United States of America

(This statement represents my personal views as a longtime advocate of free and fair international trade, and is not submitted on behalf of or in conjunction with any other person or any organization.)

Twenty-one members of the U.S. House of Representatives have unfurled a new wrinkle on the flag to which patriotic Americans pledge their allegiance. They want all copies of this symbol of our nationhood to be made in the republic for which it stands. They propose legislation "to prohibit the importation of foreign-made flags of the United States of America." This new twist in fidelity to country (H.R. 2634) even carries the supposedly ennobling title, "American Flag Fidelity Act." The import ban would apply to all flags of the U.S.A. regardless of size (presumably including flags manufactured abroad in large sheets for cutting into individual flags by manufacturers in the U.S.).

Devoted to my country's flag, to the republic for which it stands and to trade and other policies that best serve the total interest of the nation (indeed of every state in the Union), I oppose this bill. Not only is it poor trade policy, violating our international commitments, sending the wrong message to countries from which we seek freer access for our exports, and possibly inciting retaliatory measures. It is also a poorly designed way for the government to help a U.S. industry, if indeed the flag-manufacturing industry needs and deserves government help at all. If help at public expense is required and deserved, it should be through a coherent, comprehensive strategy invoking all forms of government assistance that may be appropriate for a successful adjustment effort. If import restraints are indispensable to buy time, they should be moderate, temporary and only a marginal component of the aid package. An import ban should be unequivocally rejected as a possible remedy.

The sponsors of this bill may not give it much chance for passage. What they may be expecting with this proposal they are running up the flagpole of American patriotism is local political reward. Aside from what it says of them as Congressmen, such intent and expectation insults the intelligence of constituents who seriously ponder the national interest and understand the essentials of patriotism.

Americans should be free to acquire and display American flags wherever manufactured -- except where imports from certain countries are curbed for compelling reasons of foreign policy or there is persuasive evidence of production by slave labor or other forms of worker exploitation warranting U.S. condemnation. Fidelity to this freedom will remain a facet of my enduring fidelity to flag and country.

H.R. 2688

Relating to the tariff treatment of certain cloth used in the fabrication of articles for use in public or private religious observances.

No comments submitted.

H.R. 2713

To extend the existing suspension of duty on 1,5-naphthalene diisocyanate.

P. G. Gemeinhardt - Consultant
5006 S.E. Heartleaf Terrace
Hobe Sound, FL 33455
(407) 220-9147

August 30, 1991

The Honorable Sam Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Gibbons:

I write on behalf of the Mobay Corporation to show their support for extending the current duty suspension on 1,5-naphthalene diisocyanate (NDI), as proposed in H.R. 2713.

NDI, imported by Mobay, is produced in Germany by Bayer AG, one of two worldwide producers. Mobay is not aware of NDI production in the United States. Its principal use is as a key ingredient in the formation of high strength synthetic rubbers that exhibit exceptional resistance to water and heat. These specialty elastomers or rubbers are finding commercial use in applications requiring excellent abrasion resistance and dynamic properties.

One such application involves the use of NDI-based rubbers in the front-end suspension system of domestically assembled front-wheel drive automobiles. With such models, the domestic auto industry is regaining market share against foreign imports.

Waiving the duty on imported NDI has and is benefitting the users of the chemical and furthermore, makes the end-use rubber products more economically attractive. Continuing the duty suspension beyond its scheduled expiration date will cause no harm to American industry. Rather, industry will benefit.

On behalf of Mobay, I urge the Committee to give favorable treatment to the requested duty suspension and thank you for your consideration of this matter.

Sincerely yours,

P. G. Gemeinhardt
Consultant for Mobay Corporation

PGG/bjh

H.R. 2732

To extend until January 1, 1995, the suspension of duties on certain glass fibers.

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JOHN A. McCAHILL†
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*ALSO ADMITTED IN MASSACHUSETTS
†ALSO ADMITTED IN PENNSYLVANIA

July 3, 1991

Robert J. Leonard
Chief Counsel
Committee of Ways and Means
U.S. House of Representatives
Room 1102, Longworth House Office Building
Washington, D.C. 20515

Re: Comments on H.R. 2732

Dear Mr. Leonard:

These comments are submitted in support of H.R. 2732, introduced on June 24, 1991, by Rep. Joel Hefley.

Introduction

During the 101st Congress, the following U.S. companies sought and obtained tariff relief for a certain type of fiberglass yarn: The Gates Rubber Company, Denver, Colorado; The Goodyear Tire & Rubber Company, Akron, Ohio, and Dayco Products, Inc., Dayton, Ohio.

These companies import the fiberglass yarn for use in the manufacture of automotive timing belts and fiberglass-belted tires. The rationale for the tariff relief was that the product in question has not been produced in the United States for a number of years. With no domestic industry to protect, there was no basis for a tariff on the product.

H.R. 2732 would extend for two years -- through December 31, 1994 -- the tariff relief obtained in the 101st Congress. The bill also modifies the product description to include two additional sizes of the product.

Background

Attachment A contains the complete text of the tariff relief granted last year.

The first paragraph (HTSUS subheading 9902.70.19) was enacted as Section 433 of the Customs and Trade Act of 1990 (Pub. L. 101-382).

The second paragraph (HTSUS subheading 9902.70.20) was not part of the Customs and Trade Act of 1990 because of an administrative error. During congressional consideration, the paragraph was inadvertently dropped by the Senate Finance Committee staff prior to final congressional approval of the Customs Act. Subsequently, however, the dropped paragraph was included in a technical corrections bill made part of the Omnibus Budget Reconciliation Act of 1990 (Pub L. 101-508).

The fiberglass yarn in question is imported by U.S. companies from Canada, the United Kingdom, and -- to a lesser extent -- Japan. The yarn has been variously classified by the Customs Service under HTSUS subheadings 7019.10.10, 7019.10.20, and 7019.10.60. Fiberglass tire cord fabric woven from the yarn has been variously classified under subheadings 7019.20.10, 7019.20.20, or 7019.20.50.

U.S. companies previously purchased the fiberglass yarn in the United States. But they have been unable to do so for a number of years due to the discontinuance of U.S. production.

Two U.S. companies formerly produced the type of fiberglass yarn that is the subject of H.R. 2732: PPG Industries, Inc., of Pittsburgh, Pennsylvania, and Owens-Corning Fiberglas Corporation of Toledo, Ohio. Following are points of contact at both companies for purposes of verification that the specific product described in H.R. 2732 is no longer produced in the United States:

- Kevin E. McDonald
  Market Manager
  Industrial Textile Products
  PPG Industries, Inc.
  One PPG Place
  Pittsburgh, PA 15272
  (412) 434-2532

- Bradford C. Oelman
  Vice President, Corporate Relations
  Owens-Corning Fiberglas Corporation
  Fiberglas Tower
  Toledo, OH 43859
  (419) 248-8000

As part of congressional consideration of this issue during the 101st Congress, both PPG Industries and Owens-Corning Fiberglas reviewed the technical product description and agreed that it was sufficiently precise so as to exclude any other products, particularly products that may be produced in the United States. The Department of Commerce also verified that there is no U.S. producer of the product described in the technical description (point of contact: Barbara Steinbock, Office of Industrial Trade, (202) 377-2831).

The tariff relief at issue was supported during the 101st Congress by the Rubber Manufacturers Association, a national trade association representing the rubber and tire industry with membership of more 200 companies employing approximately a quarter-million workers, and the United Rubber Workers of America, AFL-CIO. (See Attachments B and C.) Since the basis for the tariff relief remains unchanged, we think it is fair to conclude that those organizations support the intent of H.R. 2732.

Explanation of Legislation

- Section 1 of H.R. 2732 extends for two years the suspension of tariffs on certain fiberglass yarn, and fabric woven from it. The current suspension expires on January 1, 1993. The basis for the extension is that there continues to be no domestic industry to protect.

- Following is the explanation for Section 2:

During consideration by the 101st Congress, a very narrow product description was developed to ensure that the tariff relief would apply only to the product being imported by U.S. companies and to no other product. In developing the product description, technical representatives of the U.S. companies using the product advised that they imported only two sizes, 9 microns in diameter and 10 microns in diameter.

Subsequent to enactment of the legislation, the largest U.S. user of the product, The Gates Rubber Company, reported that it also imports some amounts of fiberglass yarn measuring 11.2 microns in diameter. This yarn accounts for 10-15% of the total

amount of the product imported by Gates. Therefore, Section 2 enlarges the size of the product to 11.5 microns to accommodate this larger size, allowing a tolerance of .3 microns.

Gates has also advised that it is testing a fiberglass yarn with a diameter of 7 microns. The company expects to be using this size within the next year. Therefore, the product description has been broadened to accommodate this smaller size yarn.

Since the new definition will apply to four different sizes of yarn, the wording has been modified to cover a range of sizes from the smallest to the largest rather than specifying each size. Thus, the previous reference to "9 microns in diameter or 10 microns in diameter" is replaced with the language "7 microns in diameter to 11.5 microns in diameter."

Competitive Effect

Extension of the suspension for two more years on this product will enable U.S. companies to compete on a more even footing with foreign manufactures of automotive timing belts and fiberglass-belted tires. In recent years, automotive and industrial timing belts as well as automobile tires have been flooding into the United States at unprecedented levels, in large part because of the cost advantage enjoyed by their foreign manufacturers. Continued suspension of the tariffs on fiberglass yarn would help reduce those advantages.

For U.S. consumers, continued suspension of these tariffs would result in continued stability of prices for timing belts and fiberglass-belted tires.

Revenue Loss

Based on information furnished by the companies that import the yarn, the estimated revenue loss to the U.S. government as a result of the two-year extension is:

1993	1994	Total
$450,000	$450,000	$900,000

Conclusion

The tariff duties for which continued suspension is being sought are without foundation. They place U.S. manufacturers importing fiberglass yarn at a distinct competitive disadvantage with respect to foreign manufacturers.

Continued suspension of these tariffs would be extremely beneficial in helping U.S. manufacturers lower production costs. As a result, U.S. products will continue to be competitive against imports and in world markets, and U.S. consumers will continue to benefit from the resulting price stability.

For all of the above reasons, the U.S. companies that import this product request that the Ways and Means Committee include H.R. 2732 among those tariff provisions that it reports favorably.

Submitted by:

James A. Noone
Karalekas & McCahill
1250 Connecticut Ave., N.W.
Suite 318
Washington, D.C. 20036
(202) 466-7330

9902.70.19	Fiberglass rubber reinforcing cord or yarn, made from electrically non-conductive continuous fiberglass filaments 9 microns in diameter or 10 microns in diameter and impregnated with resorcinol formaldehyde latex treatment for adhesion to polymeric compounds (provided for in subheading 7019.10.10, 7019.10.20, or 7019.10.60).	Free	No Change	No Change	On or before 12/31/92
9902.70.20	Fiberglass tire cord fabric woven from electrically non-conductive continuous fiberglass filaments 9 microns in diameter or 10 microns in diameter and impregnated with resorcinol formaldehyde latex treatment for adhesion to polymeric compounds (provided for in subheading 7019.20.10, 7019.20.20, or 7019.20.50).	Free	No Change	No Change	On or before 12/31/92

Attachment B

RMA
RUBBER MANUFACTURERS ASSOCIATION
1400 K STREET, N.W. • WASHINGTON, D.C. 20005 • (202) 682-4800

August 31, 1989

The Honorable Dan Rostenkowski
Chairman, Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Rostenkowski:

The Rubber Manufacturers Association (RMA) is a national trade association representing the rubber and tire industry with a membership of more than 200 companies which employ approximately a quarter-million workers. Member companies produce some 40,000 products including tires, tubes, hose,belts, single-ply roofing, roll covering, gaskets, sealing devices, hospital and surgical supplies, and sports equipment. RMA members account for approximately 90 percent of all rubber production in the United States. RMA represents a spectrum of companies ranging from large, well-known tire and rubber companies to small family-run business.

I am writing to seek your support in gaining Ways and Means Committee approval of additional tariff relief measures as part of the Committee's continuing consideration of the reconciliation requirements for the FY 90 budget resolution. We understand the Committee will again take up reconciliation matters when Congress reconvenes September 6.

The focus of our concern is H.R. 2077, introduced by Rep. Hank Brown of Colorado. The bill suspends for three years tariff duties on fiberglass yarn imported by a number of U.S. manufacturers for use in certain tires and automotive timing belts.

The fiberglass yarn in question is <u>not</u> manufactured in the United States. Yet, U.S. companies face tariff duties as high as 9.6% when importing it. The tariff thus places our companies at a distinct competitive disadvantage in the world marketplace.

On July 27, as part of its budget reconciliation actions, the Committee approved what it described as revenue-neutral package of tariff provisions, which did not include H.R. 2077.

It is our understanding that H.R. 2077 is among many tariff bills awaiting consideration by the Committee, which in total represent a first-year revenue loss to the government of some $165 million. We further understand that new tariff suspension bills such as H.R. 2077 will be given lower priority than relief measures linked to tariff reclassification or extensions of existing suspensions.

The estimated first-year revenue loss represented by H.R. 2077 is $597,000. We firmly believe that, over time, this relatively tiny amount would be more than offset by the boost H.R. 2077 would give to the competitive positions of U.S. companies in world markets.

Therefore, we respectfully request your assistance in: 1) Opening the way for committee approval of additional tariff relief provisions; 2) ensuring that H.R. 2077 is given every consideration for inclusion in an additional tariff package, regardless of any predetermined prioritization.

H.R. 2077 would render an important assistance to a number of our U.S. tire and belt manufacturers, and we would very much appreciate your support of it.

Sincerely,

Thomas E. Cole
President
Rubber Manufacturers Association

TEC/ew

Attachment C

URW United Rubber, Cork, Linoleum & Plastic Workers of America, AFL-CIO, CLC International Union
87 South High St
Akron, Ohio 44308
216/376-5181

Milan C. Stone, President
Joseph H. Johnston, Vice President
Kenneth L. Coss, Secretary-Treasurer

September 12, 1989

COPY

The Honorable Dan Rostenkowski
Chairman, Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Rostenkowski:

I am writing to ask your support for H.R. 2077, which suspends for three years tariff duties on certain fiberglass yarn imported by U.S. manufacturers for use in fiberglass-belted tires and automotive timing belts.

It has come to our attention that the tariffs the bill seeks to suspend — some as high as 9.6% — have been in effect for years despite the fact that the fiberglass yarn in question is not manufactured in the United States.

U.S. rubber products such as tires and belts have been coming under relentless competitive pressures from abroad in recent times. For example, trade in tires showed a deficit of nearly $1 billion for the first half of 1989. While belts had a modest deficit for the period, just a few years ago, the trade balance was actually positive. The situation was especially bad in June 1989 when imports of belts shot up 23 percent. Having U.S. companies pay an unwarranted and unreasonable tariff makes matters worse, not better. Suspending the tariff will enable U.S. companies to more effectively compete in world markets, thus protecting U.S. jobs.

It is our understanding that the Committee already has adopted a revenue-neutral package of tariff provisions. We strongly request that H.R. 2077 be added to that package. The relatively small revenue loss to the government resulting from H.R. 2077 would be more than offset by the competitive benefits that would flow to U.S. companies.

I hope you will support this important proposal.

Sincerely,

Milan Stone

Milan Stone
International President

UNION YES

MS:slu/opeiu 339
bc: Vice. Pres. Johnston
Secy-Treas. Coss
Acting Pol. Ed. Dir. Pope
James A. Noone (Karalekas & McCahill)

United for Freedom

KARALEKAS & MCCAHILL
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S. STEVEN KARALEKAS*
JOHN A. MCCAHILL†
JAMES A. NOONE†

*ALSO ADMITTED IN MASSACHUSETTS
†ALSO ADMITTED IN PENNSYLVANIA

September 24, 1991

Robert J. Leonard
Chief Counsel
Committee of Ways and Means
U.S. House of Representatives
Room 1102, Longworth House Office
Building
Washington, D.C. 20515

Re: H.R. 2732

Dear Mr. Leonard:

On July 3, 1991, we submitted supporting comments on H.R. 2732, which would extend for two years the current suspension of tariffs on certain fiberglass yarn.

In addressing the estimated revenue losses resulting from the proposed extension, we utilized the most recent information furnished by U.S. companies importing the fiberglass yarn. Recently, we have obtained some revised figures that result in lower overall revenue losses to the U.S. government. The revised amounts are:

1993	1994	Total
$397,000	$397,000	$794,000

All other aspects of our prior comments continue to be accurate and valid.

Sincerely,

James A. Noone

JAN:emh

cc: Barbara Steinbock
Industrial Trade Staff
U.S. Department of Commerce

H.R. 2769

To suspend temporarily the duty on certain mounted television lenses.

No comments submitted.

H.R. 2847

To amend the Harmonized Tariff Schedule of the United States to restore the rate of duty applicable to man-made fiber felt fabric for technical uses that was in effect under the Tariff Schedules of the United States.

TESTIMONY

concerning

H.R. 2847
Submitted on Behalf of
BWF America, Inc.
Erlanger, Kentucky

BWF America, Inc. is submitting this written testimony in support of H.R. 2847, a bill which would amend the Harmonized Tariff Schedule (HTS) of the United States to restore the duty applicable to man-made fiber felt fabric for technical uses that was in effect under the Tariff Schedules of the United States (TSUS). H.R. 2847 was introduced (by request) by Congressman Jim Bunning,(R Ky) on July 10, 1991. An identical companion bill, S. 1666, was introduced (by request) in the United States Senate by Senator Ford,(D Ky) on August 2, 1991.

BWF, located in Erlanger, Kentucky, is a fabricator and distributor of filters used in industrial filter machinery for air and liquid filtration. It produces and sells both commodity and specialty grade filters. The former filters are made entirely from commodity grade felt purchased from U.S. manufacturers. Specialty grade filters are made from imported specialty grade felt. Specialty grade felt, which sells for from three to four times the price of commodity grade felt, is not produced in the United States.

During the conversion from the TSUS to the HTS, the duty on felt used for technical purposes, including specialty grade filter felt, was inadvertently and incorrectly raised to 17 percent ad valorem. H.R. 2847 would restore the 12.5 percent ad valorem duty on specialty grade felt which was previously in effect under the TSUS.

1. Application of Incorrect Duty Rate to Industrial Filter Felt in Conversion to the Harmonized Tariff Schedule.

After years of negotiations with our major trading partners aimed at establishing a uniform system of tariff schedules throughout the world, the United States adopted the Harmonized Tariff Schedule (HTS), effective January 1, 1989. The HTS replaced the Tariff Schedules of the United States (TSUS), which had not undergone any significant change since 1962. In converting the U.S. tariff schedules from the TSUS to the HTS, the U.S. officials with the responsibility for making the conversion were directed by the President to follow certain guidelines. The first of these was:

> 1. In converting the tariff schedules the [International Trade] Commission should avoid, to the extent practicable and consonant with sound nomenclature principles, changes in rates of duty on individual products....
> Conversion of the Tariff Schedules of the United States Annotated into the Nomenclature Structure of the Harmonized System, Report on Investigation No. 332-131 Under Section 332 of the Tariff Act of 1930, USITC Publication 1400, June, 1983, at 30.

Notwithstanding this admonition, felt fabrics to be used for technical purposes were removed from the general felt category and placed in a different category under the HTS, subject to a duty rate higher than, and unrelated to, the duties

on felt under the old TSUS. More specifically, all man-made felts were previously classified together with similar, non-woven fabrics under section 355.25, subject to a duty rate of 12.5 percent ad valorem. After the conversion to the HTS, most of these fabrics were classified under HTS Heading 5602, a heading corresponding to the TSUS felt section, subject to the same duty of 12.5 percent.

However, apparently because of the effort to conform the U.S. tariff system to those of our trading partners, a new Heading 5911 was created in the HTS covering textile products for technical uses. Normally, filter felt should have been transferred to this Heading subject to the same duty rate of 12.5 percent applicable under the TSUS. Instead, however, industrial filter felt was included under Subheading 5911.40.00, covering woven "Straining cloth of a kind used in oil presses or the like, including that of human hair." The duty rate for this subheading was set at 17 percent ad valorem, the duty rate applicable to the woven man-made fabric which accounted for the bulk of imports under the TSUS predecessor section (Section 338.50). No consideration was given to the fact that this subheading also covered felt fabrics. In fact, it is only in the Harmonized Commodity Description and Coding System Explanatory Notes, which represent the "legislative history" of the international negotiations leading to the adoption of the Harmonized System, that any reference to the inclusion of non-woven, filter fabrics in Heading 5911 is made.

2. The United States Industrial Filter Market

The United States industrial filter market is essentially a two-tier market. Industrial filters are generally manufactured from either lower priced, commodity grade felt or from higher priced, specialty grade felt. Commodity grade filters sold in the United States are fabricated almost exclusively from domestically produced felt. Specialty grade filters, on the other hand, are produced totally from imported felt. Specialty grade felt, which sells at prices generally three to four times higher than commodity grade felt, is not manufactured in the United States. Although specialty felt is much more expensive than commodity felt, it has certain advantages over the lower-priced product, including longer useful life, greater efficiency, and greater ease in cleaning. The bulk of U.S. imports of specialty grade felt are manufactured in Europe. All U.S. companies which fabricate and sell filters from imported specialty grade felt also sell commodity grade filters fabricated from U.S. produced commodity grade felt.

Although specialty grade felt is superior to commodity grade felt for industrial filter applications, the high construction cost and price of the latter product has limited its share of the domestic market. Sales of specialty grade filters account for approximately five percent of total sales in the U.S. market in terms of quantity and fifteen percent of the market in terms of sales value.

The main motivation of U.S. fabricators of specialty grade filters for seeking this legislation is to eliminate the adverse effect which the improper increase in duties has had on sales of an already high-priced product. This price problem has also been exacerbated in the past several years by the depreciation of the U.S. dollar against most foreign currencies, including those from Europe from which the bulk of specialty grade felt is imported.

If this legislation is not adopted, it is very likely that certain domestic companies which fabricate specialty grade

felt will be unable to remain in business. The elimination of this production would have obvious adverse effects on employment and revenue in the United States. It should also be noted that the commodity grade filter market is characterized by low price, low margin sales by many companies. Accordingly, it is very unlikely that certain fabricators of specialty grade filters would be able to remain in business if they were limited to sales of only commodity grade filters.

The largest domestic producers of commodity grade felt have been contacted concerning this proposed legislation, and they have specifically indicated that they would have no objection to the enactment of the bill as drafted.

3. The Proposed Bill

The proposed bill would amend HTS Subheading 5911.40.40 to reestablish the duty rate of 12.5 percent ad valorem on man-made fiber felt for technical use which was applicable to all man-made fiber felt under Section 355.25 of the former Tariff Schedules of the United States. The bill would not affect the duties applicable to any other textile fabrics currently classified under Subheading 5911.40.40. Section 2 of the bill would provide for the continuation of any staged reductions previously proclaimed by the President on felt products for man-made fiber felts covered under Subheading 5911.40.00. Other products currently classified under Subheading 5911.40.00 would also remain subject to any staged duty reductions previously proclaimed by the President on those products. Section 3 would establish an effective date for the bill of 15 days after its date of enactment. Section 3 would also permit the U.S. Customs Service to reliquidate any entries of man-made fiber felt made after January 1, 1989, the date duties were raised under the HTS, at the proper duty rate of 12.5 percent, provided a request is made to Customs within a ninety-day period following the date of enactment of the bill.

4. Conclusion

BWF strongly urges the Subcommittee to give expeditious and favorable consideration to H.R. 2847, so that it may be enacted during this session of Congress. Any delay in this bill, which would simply reinstate a duty improperly altered in the conversion to the HTS, would seriously jeopardize domestic fabricators of specialty grade industrial filters.

H.R. 2868

Relating to the reliquidation of certain entries.

No comments submitted.

H.R. 2897

Relating to the tariff treatment of certain sweaters assembled in Guam.

American Textile Manufacturers Institute, Inc.
1801 K Street, N.W., Suite 900, Washington, D.C. 20006
Tel: 202/862-0500 Fax: 202/862-0570

September 13, 1991

The Honorable Sam Gibbons, Chairman
Subcommittee on Trade
House Ways and Means Committee
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing this letter on behalf of the American Textile Manufacturers Institute (ATMI), the national trade association of the domestic textile industry. Our member companies operate in more than 30 states and account for approximately 75 percent of all textile fibers consumed by mills in the U.S.

We wish to register our strong objection to H.R. 2897, a bill relating to the tariff treatment of certain sweaters assembled in Guam. As Heading 9902.61.00 of the Harmonized Tariff Schedule of the United States now reads, sweaters entered under this heading must be "assembled in Guam exclusively by United States citizens, nationals, or resident aliens..." If H.R. 2897 were to become law, this requirement would be eliminated.

In effect, what Mr. Blaz' bill attempts to do is to circumvent the use of United States labor and encourage the use (and possible abuse) of workers who are not U.S. citizens, nationals or resident aliens. The changes proposed in this bill are a transparent attempt to increase profits by using imported, cheap non-U.S. labor. It will not create jobs for U.S. citizens.

At a time when the U.S. sweater industry has been forced to reduce its capacity and lay off workers as a result of unfair foreign competition (witness the recent antidumping cases against Taiwan, Korea and Hong Kong), Congress should not be contributing to its further demise. This legislation would allow sweater assemblers in Guam to compete unfairly with domestic manufacturers here in the United States by using cheap foreign labor, and still be able to avoid U.S. duties and quotas.

H.R. 2897 would adversely affect domestic sweater manufacturers, yarn producers and U.S. workers. ATMI urges the Subcommittee on Trade to disapprove the legislation.

Sincerely,

Carlos Moore

Carlos Moore
Executive Vice President

H.R. 2962

To grant temporary duty-free treatment to fuel grade tertiary butyl alcohol.

No comments submitted.

H.R. 3004

Relating to the reliquidation of certain entries.

COMMENTS IN SUPPORT OF H.R. 3004 (MR. BEILENSON)
SUBMITTED BY INTER-PACIFIC CORPORATION

In accordance with the invitation of the Chairman, Subcommittee on Trade, Committee on Ways and Means, contained in the Subcommittee Release of August 9, 1991, we have the pleasure of submitting this testimony for the record in support of H.R. 3004, introduced by Mr. Beilenson on our behalf.

Inter-Pacific Corporation is a small family-owned business which has been engaged for many years in the importation, sale and distribution of moderately priced footwear. Our executive offices are located in Los Angeles, California.

BACKGROUND

The Trade and Competitiveness Act of 1988, Pubic Law 100-418, gave effect to a revised Tariff system known as the Harmonized Tariff Schedule of the United States. As a result, Tariff nomenclature and commodity classification of merchandise imported into the United States were brought into conformity with the nomenclature and commodity classification of virtually all of the trading partner nations engaged in international trade with the United States. The HTS, which became effective January 1, 1989, was the culmination of many years of drafting and study by the United States International Trade Commission and other Federal agencies, undertaken in response to Congressional mandate. The express purpose of the new Tariff system was to harmonized Tariff nomenclature and commodity classification. The purpose was not to increase Tariff rates on merchandise imported into the United States. Where rates of duty would be increased as a result of the adoption of the new system of commodity classification, efforts were made by the drafters of the new Tariff system to eliminate or ameliorate those increases through adjustment in Tariff language or the adoption of average rates of duty where two or more Tariff classification provisions under the prior Tariff Schedules were combined into one Tariff category under the new Harmonized Tariff System.

As a consequence of the adoption of the new Tariff provisions covering footwear under the HTS, a certain type of ladies' house slippers imported by our company from China suffered an increase in Customs duty of 500%. These slippers were previously classified and assessed duties under Item 700.74, Tariff Schedules of the United States, at 7.5% ad valorem. Under the adopted HTS system, the same slippers are assessed Customs duty at 37.5% ad valorem under Subheading 6404.19.35, Harmonized Tariff Schedule of the United States. This enormous increase in Customs duties on a product which has been imported by Inter-Pacific Corporation for more than ten years with duty assessed at 7.5% ad valorem, was the result of inadvertent drafting of the new Tariff language.

Inter-Pacific Corporation was unaware that its importations of this product, beginning January 1, 1989, would be assessed this extraordinary Customs duty increase until it was notified by the United States Customs Service, Los Angeles, on May 3, 1989, that all of its importations of this merchandise would be assessed duty at 37.5% ad valorem, retroactive to January 1, 1989. Prior to receiving this notice from the Customs Service, Inter-Pacific Corporation had imported seven shipments of the house slippers in question and had a committed contract for the purchase of one additional shipment which could not be cancelled. These house slippers were, of course, purchased, imported, and sold by the company under the assumption that the rate of duty of 7.5% ad valorem which had been assessed on this merchandise over the prior ten years would continue to apply. A retroactive increased duty assessment of approximately $300,000 was assessed on these shipments. In addition, our company was forced to discontinue further importations of these house slippers because the increase in Customs duty was so enormous that it would have been unconscionable to have passed this cost on to consumers through increased prices.

H.R. 3004

H.R. 3004, introduced by Mr. Beilenson on behalf of our company, would restore the rate of Customs duty on these eight shipments of house slippers to 7.5% ad valorem, the rate of duty in effect prior to January 1, 1989, the effective date of the HTS, thereby enabling our company to recover the excess Customs duties which we paid in 1989 on importations of this slipper. H.R. 3004 replaces H.R. 1781, previously introduced by Mr. Beilenson, which would have restored the rate of duty on these house slippers in the future as well as the past.

IMPACT ON DOMESTIC PRODUCTION

Since H.R. 3004 would affect only eight importations of the subject house slippers, all of which occurred more than two years ago, it has no adverse impact on domestic producers of footwear. The current high rate of duty would continue to apply to this type of house slipper if presently imported or if imported in the future.

We sincerely appreciate the opportunity of presenting these views in support of H.R. 3004. We will, of course, respond to any request of the Subcommittee for additional information on this subject.

Respectfully submitted,

INTER-PACIFIC CORPORATION

By _____
Frank G. Arnstein
Vice President

Dated: August 28, 1991

H.R. 3028

To require that imports of fresh papaya meet all the requirements imposed on domestic fresh papaya.

No comments submitted.

H.R. 3110

To suspend until January 1, 1995, the duty on certain agricultural sprayer parts.

No comments submitted.

H.R. 3111

To provide permanent duty-free entry for certain magnetic video tape recordings.

STATEMENT OF
RANK VIDEO SERVICES AMERICA, INC.
IN SUPPORT OF H.R. 3111

As introduced on July 30, 1991, by Congressman Matsui, H.R. 3111 would make permanent the current temporary duty suspension on pre-recorded video cassettes. Section 442 of the Customs and Trade Act of 1990 ("Section 442"), suspended the Column one rate of duty on magnetic videotape recordings of a width exceeding 6.5 millimeters, but not exceeding 16 millimeters, in cassettes of U.S. origin, valued at not over $7.00 per cassette, through 1992. (The temporary duty suspension is referenced in the Harmonized Tariff Schedule at Subheading 9402.85.24 and the otherwise applicable duty is currently referenced in the Harmonized Tariff Schedule ("HTS") at Subheading 8524.23.10). H.R. 3111 would effectively make permanent the duty suspension provided by Section 442. The Ways and Means Subcommittee on Trade has consistently reported favorably the predecessor bills to H.R. 3111 -- H.R. 1981 in 1988 and H.R. 698 in 1989 -- which provided for temporary duty suspensions. The time has now come for permanent corrective action.

Rank Video Services America, Inc. ("Rank") strongly supports passage of H.R. 3111 because it would decisively correct the anomaly in the tariff schedules which results in the imposition of a duty of approximately 40 percent on imports of pre-recorded magnetic video cassettes. Further, it would enable U.S. producers to supplement their existing domestic capacity to meet current demand for these video cassettes. Lastly, the passage of this provision would rectify certain decisions by the Customs Service that are contrary to existing case law and contrary to prior administrative rulings, which have had the effect of denying otherwise available duty-free GSP treatment to these video cassettes.

As indicated, Section 442 has accomplished these objectives, but is due to expire at the end of 1992. H.R. 3111 would provide a lasting remedy to the problem.

Background

1. Business Operations

Rank is a Delaware Corporation that is the successor-in-interest to Bell & Howell/Columbia Pictures Video Services, a partnership in which Bell & Howell Company and subsidiaries of The Coca-Cola Company and Gulf + Western Inc. were partners. Rank is a contract duplicator: it obtains master video tapes of programs from program owners, duplicates the programs onto individual video cassettes, packages the cassettes, and sells the cassettes to the program owners. The programs include entertainment, theatrical, self-help, training and industrial programs. Rank currently operates two plants in the United States (Northbrook, Illinois and Garden Grove, California). Rank also operates a duplicating facility in Mexico through its 50-percent owned subsidiary, Duplivideo, S.A. de C.V., which is located in Mexicali.

Rank's business incorporates three distinct industrial operations: the manufacture of plastic cassette shells; the production of blank cassettes; and the programming of these cassettes. Rank manufactures the bulk of the plastic shells it uses at its plant in Northbrook, Illinois and the rest are purchased from outside suppliers. When the shell manufacturing process is completed, the shells are shipped to the various other plants, including the one in Mexico, for production into pre-recorded video

cassettes. The shells used in the Mexican facility are either manufactured by Rank in the United States or purchased by Rank from United States suppliers.

2. Tariff Treatment

Pre-recorded video cassettes, that is, "magnetic video tape on which pictures or pictures and sound have been recorded" had, under the former system, been classified under TSUS item 724.12, dutiable at 0.2¢ per linear ft. under Column 1 for countries benefiting from Most-Favored-Nation (MFN) treatment; at 1¢ per lin. ft. under Column 2 for imports from non-MFN countries; and also at 0.2¢ per lin. ft. for imports from Less Developed Developing Countries that received the benefits of accelerated staged duty reductions under the Tokyo Round of Trade Agreements. The 1988 Column 1 duty-rate of 0.2¢ per lin. ft. was staged down from 0.4¢ per lin. ft. in 1979. Under the Harmonized Tariff Schedule, which went into effect in 1989, the duty would remain the same (HTS 8524.23.10, which imposes a duty of .66¢ per linear meter). Video cassettes are eligible for duty-free treatment under GSP, the U.S.-Israel Free Trade Agreement, and the Caribbean Basin Initiative. Mexico is a designated "Beneficiary Developing Country" (BDC), imports from which may qualify for GSP treatment. Both motion-picture film (pre-recorded) and newsreels are duty-free.

Under the Nairobi Protocol to the Florence Agreement (Agreement on the Importation of Educational, Scientific and Cultural Materials, 17 UST 1835; TIAS 6129; 131 UNTS 25), as implemented by Pub. L. 89-651 and Pres. Proc. 5021 of February 14, 1983, blank and pre-recorded video cassettes were afforded duty-free entry into the United States from February 14, 1983, through August 11, 1985. After August 12, 1985, imports from MFN countries have been subject to the regular Column 1 duty rate, unless otherwise eligible for duty-free treatment under other authority. Although Pub. Law 100-418, the Trade Bill signed by President Reagan on August 23, 1988, provided for the extension of the Nairobi Protocol, that legislation in general excluded pre-recorded video cassettes from duty-free treatment if imported for commercial use.

As indicated above, generally imports of pre-recorded video cassettes are eligible for duty-free entry from Mexico under the GSP. Nonetheless, the U.S. Customs Service in 1987 took an unprecedented position in two rulings issued to Rank (dated May 20, 1986, and reaffirmed on April 20, 1987) which denied GSP status to certain pre-recorded cassettes manufactured in Mexico from non-Mexican origin cassette shells and bulk magnetic media. According to the Customs rulings, the video cassettes failed to satisfy the 35-percent "value-added" requirement prescribed in section 503(b) of the Trade Act of 1974 because the blank video cassettes, before they were programmed with movies, did not constitute articles produced in Mexico. The Customs Service reasoned that the process of making blank video cassettes from non-Mexican origin cassette shells and bulk magnetic media*/ did not "substantially transform" these materials into new articles produced in Mexico, and thus the cost of the shells and magnetic media cannot be counted toward satisfying the 35-percent requirement.

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*/ Bulk magnetic media must be imported into Mexico because there is no domestic video tape manufacturing industry in Mexico. Likewise, cassette shells must be imported into Mexico because there is no domestic cassette shell manufacturing industry in Mexico.

Prior to the enactment of Section 442, Rank's Mexicali facility had been operated at a mere 25 percent of capacity because, due to the position taken by the Customs Service, the facility could be utilized only to make cassettes for the U.S. market that qualify for GSP treatment without regard to the cost of component materials.

Section 442 mitigated the harsh effect of these rulings by affording duty-free treatment for qualified pre-recorded cassettes; however, as indicated, this provision expires December 31, 1992. It should be noted that the Administration gave its approval to the provision in the Customs and Trade Act of 1990 when the then-proposed legislation was amended to require U.S.-origin shells and a valuation of not more than $7.00 in order to narrow the scope of the bill as much as possible. These changes satisfied the Administration's concerns about benefiting countries that are not working with the United States in the Nairobi Protocol negotiations to remove tariff and other barriers to U.S. exports of audio-visual materials.

Necessity for Permanent Duty Suspension

1. Correction of Anomalous Tariff Structure

As stated previously, the duty on pre-recorded video cassettes is assessed on the basis of the length of tape contained in the cassette rather than on an ad valorem basis. Obviously, the longer the program, the higher the duty, as illustrated in the following chart:

DUTY IMPACT ON PRE-RECORDED VHS CASSETTES

Tape Length	Entered Value	Column 1 Duty	Ad Valorem Equivalent
30 min./(200 ft.)	$2.40	$0.40	17%
45 min./(300 ft.)	$2.45	$0.60	24%
60 min./(400 ft.)	$2.70	$0.80	30%
90 min./(600 ft.)	$3.30	$1.20	36%
120 min./(800 ft.)	$3.80	$1.60	42%

There are two fundamental flaws with the tariff structure for video cassettes. First, the applicable duty is extremely high on an ad valorem equivalent basis, reaching about 42% for a 120-minute video tape, which is approximately the length of a full-length movie. Duties this high are generally reserved for products from unfriendly countries subject to the Column 2 rates rather than friendly nations receiving MFN treatment. Because the video cassette industry anticipates profits of less than 10% on imports, the extraordinary duty would have rendered operations in friendly countries economically impossible if it were not for the enactment of Section 442 of the Customs and Trade Act of 1990.

More important, however, is the unintended and disproportionate effect of the duty on pre-recorded video cassettes imported for home use. As a general rule, imports under HTS Subheading 8524.23.10 consist of two different products, as reflected in the statistical annotations: (1) HTS Subheading 8524.23.10-40 ("Magnetic video tape ... [o]f a width not exceeding 16 mm, in cassettes") covering video cassettes for use in home video cassette recorders (VCRs), which contain 1/2 inch wide tape; and

(2) HTS Subheading 8524.23.10-80 ("Other") covering "master" tapes of foreign television programs and foreign movies for broadcast by U.S. television stations or for duplication in the United States, which are generally one inch wide or larger, and 3/4 inch video cassettes for educational, institutional and industrial use.

Although video tape technology has existed since the early 1960's, only in the last decade, as the price of VCRs has declined significantly, has video tape been used in the home by consumers. From the early 1960's to the early 1980's, the great bulk of imports were either "master" tapes or 3/4 inch cassettes. Since then, imports of video cassettes for sale or rental to home users (HTS 8524.23.10-40) have increased as demand has grown, while imports for television broadcast, other commercial or educational display, and duplication have remained fairly constant. The dramatic increase in imports of video cassettes for home use is illustrated below:

IMPORTS OF PRE-RECORDED MAGNETIC VIDEO TAPE

Description	Quantity (units)				
HTS	1983	1984	1985	1986	1987
8524.23.10-40 (cassettes 16 mm and under)	235,044	192,997	655,217	1,028,210	1,642,198
(formerly referenced as TSUSA 724.1220 cassettes 5/8" and under)					

Source: USITC data

The tariff rate of .66 cents per linear meter for all imports under HTS Subheading 8524.23.10 represented a glaring anomaly in the Tariff Schedules, since the same tariff burden was imposed on products with vastly different economic values. The value of a "master" tape of a television program ranges between about $10,000 and $1,000,000, depending on the program's popularity, and averages roughly $50,000; the duty on such a "master" tape would be about $12.00, or 0.024 percent ad valorem for the average 2-hour "master" tape. In contrast, a video tape of the same program imported for use in a home VCR is worth less than $5, but would be subject to a duty of $1.60, almost 40 percent ad valorem. If the tariff burden on video cassettes imported for home use were made proportionate to the tariff burden on "master" tapes on an ad valorem basis, the duty on video cassettes for home use would be virtually zero. The only explanation for this differential is that the home usage market for video cassettes has only recently experienced its growth explosion. Thus, there has been little opportunity to address the issue and to take lasting corrective action.

2. Need for Additional Sources of Supply

Rank, in conjunction with its Mexican partners, opened the Mexicali facility in 1985 to develop an additional source of supply for what it correctly perceived to be an expanding market for pre-recorded video cassettes for use in home VCRs. Over $10 million was invested in plant and equipment in Mexicali. The Duplivideo facility was chosen in part because of its proximity to technical trade schools that provide the training essential to the performance

of many of the technical operations involved in the production of video cassettes. The plant was also located in Mexicali because the facility could produce both VHS-format cassettes for the U.S. market as well as Beta-format cassettes for the Mexican market.

As is well known, the significantly increased demand in the U.S. market for pre-recorded video cassettes for home display has been accompanied by a shortfall in domestic capacity. Rank does not have the capacity at its two existing U.S. facilities to meet anticipated demand over the next few years. Moreover, Rank cannot turn to other facilities located in the United States because duplicators must utilize their own plants to ensure that quality control standards and production and delivery schedules are met. Therefore, it is essential that Rank be able to operate the Mexicali facility at full capacity. As pointed out above, however, Rank will not be able to utilize the Mexicali facility to meet the demand for full-length movies if the high tariff burden is reinstated. If the duty is reinstated, Rank will have no alternative but to terminate its Mexican operations. The result will be that Rank will be unable to produce enough pre-recorded video cassettes to meet the rising demand for the product.

3. Correction of Inequitable Rulings Denying GSP Treatment

As explained above, the Customs Service in 1987 ruled that certain pre-recorded cassettes imported from Mexico may not be eligible for GSP treatment unless direct processing costs alone meet the 35-percent threshold prescribed in the GSP statute. Rank believes that the rulings are incorrect. The cost of cassette shells and bulk magnetic media imported into Mexico should count toward satisfying the 35-percent requirement because those materials are "substantially transformed" into blank cassettes in Mexico before they are used to make pre-recorded cassettes.*/ The Customs Service's determination that the production of blank cassettes does not constitute a "substantial transformation" runs counter to a long line of judicial authorities and even Customs' own prior administrative rulings. See unpublished ruling dated June 16, 1980, CLA-2:RRUCSC (063646) (bulk recording tape that was cut and wound onto pancakes was substantially transformed for GSP purposes); unpublished ruling dated June 30, 1980, CLA-2:RRUCSC (061909) (tape that was cut and spliced into pre-leadered pancakes and then wound onto cassette hubs was substantially transformed into a new and different article). See also Torrington Co. v. United States, 764 F.2d 1563 (Fed. Cir. 1985) (wire that was processed into needle swages and then into finished needles underwent two substantial transformations for GSP purposes); Belcrest Linens v. United States, 741 F.2d 1368 (Fed. Cir. 1984) (pillowcases made from pre-embroidered bolts of fabric were substantially transformed);

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*/ It is undisputed that programming the blank cassettes with movies constitutes a "substantial transformation." Thus, the manufacture of blank cassettes from shells and magnetic media followed by the programming of the blank cassettes should satisfy the "dual substantial transformation" standard applied in determining GSP eligibility.

Texas Instruments, Inc. v. United States, 681 F.2d 778 (Fed. Cir. 1982) (assembly of integrated circuits and photodiodes constituted substantial transformation for GSP purposes); Diamond Match Co. v. United States, 49 CCPA 52, C.A.D. 796 (1962) (inserting wooden stick into ice cream changes name, character and use of stick, i.e., would qualify as a substantial transformation); Cardinal Glove Co. v. United States, 4 CIT 41 (1982) (sewing together glove panels constitutes substantial transformation); Grafton Spools Ltd. v. United States, 45 Cust. Ct. 16, C.D. 2190 (1960) (winding ribbon onto empty typewriter ribbon spools resulted in change of name, character and use of the spools, i.e., would constitute a substantial transformation).

The duty suspension provided in H.R. 3111 would cure the inequitable result produced by the Customs Service rulings on the GSP treatment of video cassettes.

Conclusion

For the reasons set forth above, Rank Video Services America, Inc. respectfully urges the Subcommittee to act favorably on H.R. 3111 and to permanently suspend the duty on pre-recorded magnetic video tape imported for home use.

H.R. 3250

Regarding the tariff classification of motor vehicles for the transport of goods.

AMERICAN INTERNATIONAL AUTOMOBILE DEALERS ASSOCIATION

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Analysis of H.R. 3250/S. 1646:
The "Job Fairness and Trade Equity Act of 1991"

This statement, submitted on behalf of the American International Automobile Dealers Association ("AIADA") by Walter E. Huizenga, AIADA President, analyzes and comments on legislation now pending before the Subcommittee on Trade, Committee on Ways and Means of the U.S. House of Representatives, that would change substantially the U.S. tariff treatment of imported motor vehicles by greatly increasing the duty on imported passenger vans and certain classes of imported sport utility vehicles. The legislation, entitled the "Job Fairness and Trade Equity Act of 1991," would extend to additional classes of vehicles the 25 percent tariff that the United States imposed on imported trucks in 1965 as a retaliatory measure arising out of a trade dispute with the European Community.

This legislation, which proposes to establish a consistent definition and regulatory treatment of trucks, would instead produce significant adverse economic effects, including harm to U.S. consumers, auto dealers and distributors, and their employees. AIADA estimates that consumers will face an increase of $1.8-2.2 billion per year in the retail price of multipurpose vehicles. Additionally, the 4,000 domestic dealers of imported multipurpose vehicles will incur substantial financial losses and the jobs of their 140,000 employees will be jeopardized. Second, because the legislation, if passed, would conflict with our country's international obligations, including in particular our obligations under the General Agreement on Tariffs and Trade ("GATT"), it would result in claims for compensation and/or eventual retaliation by affected trading partners, with resulting harm to other U.S. industries (from compensation) or to U.S. exporters (in the event of retaliation). Third, it would be inconsistent with the Harmonized Tariff Schedule and established classification principles thereunder, and with U.S. international customs obligations. For these reasons, as discussed below, AIADA urges the Subcommittee on Trade to reject the proposed legislation.

I. Summary of the Legislation

The proposed "Job Fairness and Trade Equity Act of 1991" would subject to the 25 percent truck tariff any imported motor vehicle that is a "light truck" within the meaning of that term as defined by regulations of the Department of Transportation implementing vehicle fuel economy standards 1/, or that is a "light duty truck" as defined in regulations of the Environmental Protection Agency effectuating vehicle emission control standards. 2/

The intended effect of the bill would be to subject to the 25 percent tariff all imported sport utility vehicles and passenger vans, which now are dutiable at the rate of 2.5 percent. 3/ Under the current practice of the U.S. Customs Service, passenger vans and four-door models of sport utility vehicles are subject to a tariff of 2.5 percent. Sport utility vehicles currently are classified in tariff provisions subject to the 25 percent tariff only if they are two-door models.

1/ 49 C.F.R. § 523.5.

2/ 40 C.F.R. § 86-082-2.

3/ As drafted, the bill would, as an unintended effect, subject to the 25 percent tariff additional classes of imported vehicles now dutiable at 2.5 percent, including motor homes and most ambulances, by attempting to shift from Heading 8703, HTSUS, to Heading 8704, HTSUS, all vehicles that meet EPA and DOT definitions for a "light truck" or a "light-duty truck," respectively, but are clearly within the scope of Heading 8703.

II. The Proposed Legislation Would Cause Significant Adverse Economic Effects

The bill would increase by a factor of ten the tariff on imported passenger vans and four-door sport utility vehicles. A duty increase of this magnitude would cause substantial economic harm, including harm to U.S. dealers and distributors, and it would result in the loss of U.S. jobs. The bill also would result in enormous costs to U.S. consumers, whose choices in the market for sport utility vehicles and vans would be severely restricted (as imports of these vehicles would be severely curtailed, if not virtually eliminated), and who would experience inevitable and substantial price increases in the corresponding domestically-produced vehicles.

We estimate retail prices on multipurpose vehicles will increase by a total of $1.8-2.2 billion, depending in part on how substantially domestic manufacturers raise prices. In 1990, approximately 240,000 four-door sport utility vehicles and passenger vans were imported into the United States. We estimate the tenfold duty increase will force retail price increases of between $1,700 to $6,000, with an average increase of approximately $2,140. This represents a price increase in the range of 12 to 15 percent on average. 4/ Using standard industry indices of elasticity of demand, we estimate sales reductions of at least 29-36,000 units. (Should the domestic manufacturers uncharacteristically elect to hold their own prices steady in a bid to expand market share, the consequences will be even more devastating for imported automobile dealers and their employees.) Assuming sales of 204-211,000 units based on this reduction in sales, retail prices on imported multipurpose vehicles will increase by an estimated $436-451 million.

In 1990, domestic manufacturers sold 1.6 million multipurpose vehicles. For purposes of this analysis, we conservatively estimate the domestic industry will not increase its sales of these popular types of vehicles. (This takes into account a reduction in estimated sales due to consumer resistance to higher prices.) We estimate the industry will raise its prices by $860-1,130 per vehicle on average. 5/ As a result, domestic multipurpose vehicle prices will increase by $1.38-1.8 billion.

Consumers thus can anticipate paying roughly $1.8-2.2 billion per year more for sport utility vehicles and passenger vans if this bill becomes enacted. And they are not the only ones who will be hurt. For the more than 4,000 dealers of AIADA who sell multipurpose vehicles, the bill would be damaging as well. The loss of this market, one of few bright spots in their market picture in recent years, would cause substantial financial losses for many of these dealers and jeopardize the jobs of their 140,000 employees.

4/ When the tariff on small trucks was increased from 4 percent to 25 percent, the retail price of small trucks increased by 16 percent on average. See Robert C. Feenstra, Quality Change Under Trade Restraints: Theory and Evidence from Japanese Autos (Unpublished, Mar. 1987). Our estimate of a 12-15 percent increase is thus conservative and reasonable.

5/ During the early years in which the Voluntary Export Restraints (VERs) were in effect, one study estimated domestic manufacturers increased their prices by 40 cents for every dollar increase in the retail price of Japanese automobiles. See Robert W. Crandall, Assessing the Impacts of the Automobile Voluntary Export Restraints on Automobile Prices, presented to the Society of Government Economists, New York, December, 1985. Another study found that by 1984 the VERs had increased prices on Japanese imports by 22.5 percent above the prices predicted to prevail in the absence of the restraints that year; domestic manufacturers increased their prices by an average of 12 percent over predicted prices. See Charles Colyns & Steven Dunaway, The Cost of Trade Restraints: The Case of Japanese Automobile Exports to the United States in IMF, 34 Staff Papers 162, 164 (Mar. 1987). By their calculation, domestic prices increased by 53 cents for every dollar increase in the retail price of Japanese automobiles. We thus calculated the anticipated domestic price increase by assuming 40 percent and 53 percent price increases as our outside parameters.

Moreover, the harm caused by the bill would not be balanced by positive economic effects. Because the tariff increase and the affected volume of trade are so large, and because the legislation represents a blatant violation of our country's trade agreements (as discussed in part II, below), the bill almost certainly would result in claims from trading partners for compensation. 6/ Because the right to compensation is a fundamental right secured by the GATT, the United States would be obliged to offer substantial tariff concessions, to the detriment of affected U.S. industries. In the event that the legitimate claims for compensation would be so large as to be difficult or impossible to satisfy, the bill probably would lead to retaliation against U.S. exports. The result would be harm to U.S exporters of the same magnitude as the harm that would be caused to exporters of the affected motor vehicles. The direct adverse impact of the bill, together with the economic impact of the retaliation, would more than outweigh any positive economic effects to U.S. vehicle producers caused by increasing the tariff to prohibitive levels.

Moreover, the stated purpose of recovering approximately $500 million in Federal duty collections would not be achieved by the bill. The ten-fold tariff increase is so substantial that trade in the affected categories of imported motor vehicles would be severely curtailed, if not virtually eliminated. Therefore, not only would this legislation fail to produce the revenue gains suggested by its proponents, it could reduce the Customs revenue now derived from the existing tariff as these vehicles disappear from the market.

III. The Legislation Would Violate U.S. Obligations under International Trade Agreements

Because the 2.5 percent duty rate now applied to the vehicles affected by the bill is the maximum rate established pursuant to trade negotiations under the GATT, the legislation would be an outright violation of the obligations of the United States under GATT Article II and would give rise to demands for compensation and/or retaliation, as discussed above. The bill is also objectionable because it would attempt to expand the scope of the 25 percent retaliatory tariff on imported trucks that the United States imposed, in a deliberately circumscribed fashion, as the consequence of a trade dispute that arose between the United States and the European Community almost thirty years ago. The damage that the bill would cause to our country's trade relations would be intensified because the 25 percent tariff that the United States maintains on imported trucks 7/ is an extraordinarily high tariff relative to tariffs maintained generally by industrialized countries. It is particularly high compared to U.S. duty rates in general, which on a trade-weighted basis average approximately 4 percent. Enactment of the bill, therefore, would conflict with the goal of the United States to attain reciprocal reduction or elimination of tariffs.

The perverse effects of the proposed legislation from a trade policy standpoint are apparent from an analysis of the history and the scope of the retaliatory 25 percent tariff, as described below.

A. Origin of the Current 25 Percent Truck Tariff

The United States imposed the 25 percent truck tariff in retaliation for actions by the European Community ("EC") beginning in 1962 that substantially reduced U.S. exports of

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6/ On January 18, 1989, the European Community filed a formal diplomatic letter of protest with the State Department, stating that it would "have no option but to reserve its GATT rights in full" if the January 4, 1989, Customs Service ruling on the tariff classification of multipurpose vehicles was not rescinded. EC Threatens GATT Challenge of Customs Truck Classification Decision, 7 Inside U.S. Trade 1 (Jan. 20, 1989).

7/ The scope of the retaliatory tariff has never encompassed all imported trucks but is limited in scope, as discussed in subpart B, below.

poultry products to West Germany. Specifically, on July 1, 1962, the existing West German tariff on poultry--then the equivalent of 4.5 cents per pound--was replaced with a new tariff equivalent to approximately 13.5 cents per pound, an increase of about 300 percent. The action resulted from the imposition of "common import fees" among the countries of the "European Economic Community," or "Common Market," as it then was called.

The huge tariff increase occurred at a time when U.S. poultry producers were reaping major benefits from a profitable and growing market for frozen poultry products in Europe, particularly in West Germany. U.S. poultry exports to West Germany had grown from $2.5 million in 1958 to $35.5 million in 1961. Beginning in mid-1962, U.S. poultry exports to West Germany began to plummet.

By that time, the United States and the EC had been engaged in GATT-based trade consultations for approximately two years, to resolve issues of compensation owed to the United States for the effects on U.S. trade caused by the large number of increases to bound tariffs, including the tariff on poultry, arising from the establishment of common EC tariffs. 8/

By early 1962, many compensation issues had been settled, but U.S. losses from diminished poultry exports remained a point of disagreement that was never to be resolved. In 1963, after negotiations failed to break the impasse, the United States took the position that it was free to retaliate under GATT Article XXVIII by withdrawing trade concessions granted by the United States in previous trade negotiations under the GATT. 9/

Presidential Proclamation 3564, issued by President Johnson on December 4, 1963, took effect on January 4, 1964. The Proclamation withdrew concessions on a most-favored-nation ("MFN") basis, i.e., increased tariffs would apply to products from all GATT Contracting Parties. 10/ However, the United States, in selecting products on which to withdraw tariff concessions, attempted to minimize the adverse effects on trading partners outside the European Community.

Four products were selected: trucks valued over $1,000, brandy valued at more than $9.00 per gallon, potato starch, and dextrine. Over half the value of trade affected by the proclamation resulted from the withdrawal of the concession on the truck tariff, which rose from the rate of 8.5 percent then in effect (as a result of past GATT negotiating rounds) to the previous rate of 25 percent. The intended target of the increased truck tariff was Volkswagon, which by the early 1960s had developed a significant market niche in the United States for small, rear-engined vans and pick-up trucks. After 1963, these vehicles practically disappeared from the U.S. market. When the increased tariff was first imposed, Volkswagon was the only company affected substantially. At that time, no foreign manufacturer other than Volkswagon had significant sales of small trucks in the U.S. market.

In the years since Presidential Proclamation 3564 went into effect, subsequent proclamations have reinstated the tariff concessions on the targeted products other than

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8/ The establishment of common EC tariffs constituted a "customs union" for purposes of GATT Article XXIV. Article XXIV requires that a GATT Contracting Party exceeding bound tariffs ("bindings") as a result of entering a customs union enter into consultation with affected Contracting Parties, as provided in Article XXVIII, to establish concessions that will compensate the aggrieved Party.

9/ Article XXVII gives an aggrieved Contracting Party the right, under certain conditions, to modify or withdraw tariff concessions previously granted to a Contracting Party that exceeded a bound tariff.

10/ In formulating its withdrawal of concessions, the United States interpreted the GATT as requiring the withdrawal to be done on an MFN basis because of the nature of the MFN obligation that is at the heart of the GATT and that is embodied in GATT Article I.

trucks. 11/ Although the United States in recent years has received requests from the government of Japan to reduce the truck tariff, U.S. negotiators have not considered the proposed concessions adequate to support possible U.S. action to reduce the tariff.

B. Scope of the Current 25 Percent Truck Tariff

The retaliatory 25 percent truck tariff imposed by Presidential Proclamation 3564 is deliberately circumscribed in scope and never has applied to all types of imported trucks. As originally issued in 1963, the Proclamation applied to "automobile trucks valued at $1,000 or more (provided for in item 692.05)" pursuant to former item 945.69, Tariff Schedules of the United States (TSUS). It never has been extended to apply to those categories of trucks that did not fall within the scope of item 692.05, TSUS, or its successor provisions, as effectuated by the Customs Service. 12/ Specifically, the 25 percent retaliatory tariff never has applied to trucks constructed and equipped to perform special functions, such as fire engines, mobile cranes, wreckers, and concrete mixers; to tractors for tractor-trailer rigs, or to cab chassis for medium-duty and heavy-duty trucks. 13/

Vans equipped to carry passengers never have been subjected to the 25 percent tariff resulting from the 1963 Proclamation, nor have four-door sport utility vehicles. Two-door sport utility vehicles have been subject to the tariff since early 1989, as a result of a classification decision issued by the U.S. Treasury Department on February 16, 1989, soon after the Harmonized Tariff Schedule went into effect. That decision modified, but did not alter the result of, a Customs Service ruling issued on January 4, 1989, classifying two-door Suzuki sport utility vehicles under Heading 8704, HTSUS, making them subject to the 25 percent tariff. 14/

C. Extension of the Scope of the 25 Percent Tariff Is Unjustified on Trade Policy Grounds

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11/ Presidential Proclamation 4304, signed by President Nixon on July 16, 1974, reversed Presidential Proclamation 3564 with respect to brandy valued over $9.00 per gallon but less than $17.00 per gallon; the higher tariff on brandy was reinstated by Presidential Proclamation 4478, issued by President Ford on November 26, 1976, which terminated Presidential Proclamation 4304. On December 11, 1979, President Carter issued Presidential Proclamation 4707, which terminated the withdrawals of all tariff concessions accomplished by Presidential Proclamation 3564 "except those applicable to automobile trucks valued at $1,000 or more."

12/ E.g., item 692.02, TSUS (1988); and item 8704, HTSUS (1991), which is currently in effect.

13/ At the time the Proclamation was issued, the Customs Service classified light-duty cab chassis as "chassis," which were not within the scope of item 692.02. In 1980, the Customs Service reclassified light-duty cab chassis as unfinished trucks classifiable under item 692.02, based on principles established by Daisy-Heddon, Div. Victor Comptometer v. United States, C.A.D. 1228 (1979).

14/ Contrary to certain statements offered in support of the bill, the Customs Service never issued rulings classifying all sport utility vehicles and vans under the 25 percent tariff provision (Heading 8704, HTSUS). Upon issuing the ruling on Suzuki vehicles, the Customs Service issued a press release disclosing the intention to classify all such vehicles under Heading 8704, HTSUS. The Treasury Department decision classified two-door sport utility vehicles under Heading 8704 but classified four-door sport-utility vehicles and passenger vans under Heading 8703, on the basis that the latter classes of vehicles were principally designed for the transport of persons.

As illustrated by the history and scope of the 25 percent retaliatory tariff, expansion to all sport utility vehicles and to passenger vans would be unjustified because it would bear no relation to the action by the EC that gave rise to the increased tariff -- an action for which the U.S. already has retaliated. Such an expansion is also unjustified because it would extend the retaliatory tariff to motor vehicles that never were intended to fall within the scope of the intended withdrawal of tariff concessions by the United States. Moreover, the bill would affect significantly U.S. trade with Japan, a country not involved in the underlying dispute.

IV. The Bill Is Inconsistent with the Harmonized Tariff Schedule, with Tariff Classification Principles Thereunder, and with U.S. International Customs Obligations

The bill's sponsors state as a rationale for this legislation the desire to achieve consistency among the various U.S. regulatory provisions applying to motor vehicles, with respect to whether a specific motor vehicle is classified as a "car" or a "truck." In this respect, the stated rationale for the bill fails to recognize that the terms "car" and "truck" are not the legal bases upon which motor vehicle tariff classification decisions are made.

Specifically, the proposed legislation would add to the Harmonized Tariff Schedule ("HTSUS") a new U.S. note that is inconsistent with the language and scope of the HTSUS itself. Additionally, because the HTSUS is and must be based on the international nomenclature of the Harmonized Commodity Description and Coding System ("Harmonized System"), the bill would violate U.S. obligations under the Harmonized System Convention. 15/ As a consequence, the enactment of the bill would be strongly opposed by U.S. trading partners, which are parties to the Harmonized System Convention. These trading partners would assert that the United States was the country most prominent in the development of the Harmonized System and the Harmonized System Convention.

As a further consequence of the breach of the Harmonized System Convention, the bill if enacted would cause friction between the United States and its trading partners in the context of U.S. membership in the Customs Cooperation Council ("CCC"), the international body charged with resolving classification disputes under the Convention, on which virtually all U.S. trading partners serve as members. At present, the United States is under criticism for maintaining its current position classifying under Heading 87.04 of the Harmonized System two-door sport utility vehicles, which are classified under Heading 87.03 of the Harmonized System in all other member countries. The CCC has ruled definitively that the U.S. position classifying these vehicles under Heading 87.04 is incorrect, but the United States has taken no action to come into conformity with that ruling. Enactment of this legislation seriously would worsen U.S. relations in the CCC and be viewed as outright disregard for the rights of member CCC nations. These member nations would charge that the United States is placing domestic political considerations ahead of the purpose of the CCC to harmonize international tariff classification under the Harmonized System.

Heading 8703 of the HTSUS, which contains the exact language of the Harmonized System, applies to "motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars." (Emphasis added.) As the language of the Heading makes clear, the scope of the Heading is not limited to cars. In fact, the Heading includes certain vehicles which for purposes other than tariff classification would be considered to be trucks. For this reason, H.R. 3250 is fundamentally inconsistent with the Harmonized System and with the HTSUS. As one of the stated purposes of the bill is to classify motor vehicles for tariff purposes consistently with the distinctions between "cars" and "trucks" that are established by

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15/ The United States is a party to the International Convention on the Harmonized Commodity Description and Coding System ("Harmonized System Convention"), the principal obligation of which, set forth in Article 3, is to maintain its Customs tariff in conformity with the Harmonized System nomenclature.

domestic standards for motor vehicle fuel economy and emissions, the bill seeks to achieve an objective that is inconsistent with U.S. tariff law and with the U.S. international obligation to maintain its tariff schedule according to the Harmonized System nomenclature.

Heading 87.03 of the international Harmonized System nomenclature (and accordingly Heading 8703, HTSUS) specifically includes such motor vehicles as ambulances, prison vans, hearses, and motor homes, among other types of motor vehicles that are not "motor cars." 16/ These types of motor vehicles are almost invariably truck-based as a matter of structure (and therefore would be subjected to the 25 percent tariff by the bill). However, as all of these vehicles are principally designed for the transport of persons, within the meaning of Heading 8703, none of them are properly classified in Heading 8704, HTSUS, as "motor vehicles for the transport of goods." Similarly, passenger vans and four-door sport utility vehicles fall within the description of Heading 8703 and are not described by Heading 8704, because they are not, for tariff purposes, "motor vehicles for the transport of goods."

Moreover, the bill is inconsistent with fundamental principles of tariff classification. General Rule of Interpretation 1, HTSUS, provides in pertinent part that "classification shall be determined according to the terms of the headings and any relative section or chapter notes . . ." Because the U.S. note that H.R. 3250 would create cannot be reconciled with the language and scope of Heading 8703, classification of motor vehicles in accordance with that note would violate General Rule of Interpretation 1, the most basic principle underlying classification decisions under the HTSUS.

V. The Bill Would Serve No Valid Regulatory Purpose

The definitions of "iight trucks" and "light duty trucks" under the DOT and EPA regulations, respectively, are uniquely designed for their specific regulatory purposes and are not entirely consistent with each other. The attempt in H.R. 3250 to apply such definitions to the tariff classification of certain motor vehicles is erroneous from a technical standpoint and, from a policy standpoint, serves no valid purpose. The fact that sport utility vehicles and vans are considered "trucks" for some purposes (including purposes of U.S. fuel economy and emissions regulations) should have no bearing on the tariff classification of these vehicles. The result of enactment of H.R. 3250 would be irreconcilable tariff provisions, because of the incorrect implicit assumption in the bill that the scope of Heading 8703, HTSUS, encompasses only passenger cars.

Moreover, even if the regulatory objective of the bill were a valid one, the bill would not achieve it. The two regulatory definitions incorporated are themselves not the same in scope. Moreover, because these regulatory definitions may be amended in the future, the bill cannot achieve permanent consistency between those regulatory definitions and the definitions it would apply to tariff classification.

VI. Conclusion

H.R. 3250 is an unwise and unwarranted attempt to increase substantially the tariff on passenger vans and sport utility vehicles. It would cause serious economic harm, serve no valid regulatory purpose, and fail to achieve its intended objectives. If enacted, it would result in the obligation to grant tariff compensation to our trading partners and, should compensation not be agreed to, it would subject our country to retaliation. Compensation would adversely affect U.S. industries, and retaliation would result in harm to U.S. exporters. Moreover, the bill if enacted would be a blatant violation of U.S. international trade agreements. It would be particularly objectionable from a trade policy standpoint because it seeks to expand the scope of a withdrawal of tariff concessions accomplished during a trade dispute almost thirty years ago, for reasons unrelated to that dispute.

16/ Explanatory Notes to the Harmonized Commodity Description and Coding System, Volume 4, at 1427.

The bill also is seriously flawed from a legal standpoint, as it would create internal inconsistencies in the Harmonized Tariff Schedule, depart from established tariff classification principles, and breach U.S. customs obligations under the Harmonized System Convention.

For all these reasons, the American International Automobile Dealers Association urges the Subcommittee on Trade to reject the proposed legislation.

AMERICAN IRON AND STEEL INSTITUTE

WRITTEN STATEMENT FOR THE RECORD
SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
SEPTEMBER 16, 1991

The American Iron and Steel Institute (AISI), on behalf of domestic member companies, which represent approximately 80 percent of domestic raw steel production, has the following comments on HR 3250, the "Trade Equity Act of 1991" introduced, by Congressman Kildee.

AISI is pleased to join with the Motor Vehicle Manufacturers Association in support of HR 3250. We believe that this bill is needed to correct the inconsistencies between what various agencies of the U.S. Government classify as a car vs truck.

In 1989 the Customs Service decided to classify sport utility vehicles and sports vans (together known as MPVs) as trucks. This decision was made in order to clarify the issue of what is a truck and what is a car for tariff purposes and to eliminate manipulation of the tariff schedules by some importers who were attempting to avoid the higher truck duty rate. After substantial pressure from Japanese and British MPV producers, the Treasury overturned the Customs decision. The Treasury ruling stated that MPVs were to be classified as trucks if they had two doors, and as cars if they had four doors, a back seat and a back window.

This decision created an artificial division between cars and trucks. We believe that the Treasury decision is in error and should be reversed by Congress. All MPVs are produced on truck chassis, are manufactured by the truck divisions of their companies, and are classified as trucks for EPA, safety, and fuel economy purposes. However, the four door models with back seats and windows have been classified as autos for import duty purposes. In the case of the Rover, a British MPV and an auto for duty purposes, the inconsistencies go even further. The Rover is also classified as a truck by Treasury for luxury tax purposes, meaning that no luxury tax is due.

The net result of Treasury's duty rate decision on these products is that the MPV importers get the best deal possible from each of the U.S. Government agencies involved in classifying these products, since trucks have less stringent EPA, safety and fuel economy regulations and autos have a duty rate of 2.5 percent compared to the 25 percent truck duty rate.

The decision by Treasury has the effect of favoring MPV importers at the expense of domestic producers of MPVs, thereby harming the suppliers of the domestic vehicle industry, such as the steel industry.

And finally, by classifying MPVs as autos for duty purposes, the Treasury losses $500 million per year in duty collections, adding to our budget and trade deficits. AISI strongly urges the Congress to eliminate this problem by supporting HR 3250.

ASSOCIATION OF INTERNATIONAL AUTOMOBILE MANUFACTURERS, INC.
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September 15, 1991

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Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
1102 Longworth House Office Building
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Dear Mr. Leonard:

The Association of International Automobile Manufacturers, Inc. (AIAM), hereby responds to the request of the Subcommittee on Trade for comments on H.R.3250, ("the bill"). The bill would classify under heading 8704 of the Harmonized Tariff Schedule (HTS), at a rate of 25%, all vehicles that either satisfy the criteria used by the National Highway Traffic Safety Administration (NHTSA) for defining "light Truck" (49 CFR 523.5) or the criteria used by the Environmental Protection Agency (EPA) for defining "light-duty truck" (40 CFR 86.082-2). For the reasons set forth below, AIAM strongly opposes the bill.

First, the criteria used by NHTSA and EPA for "light truck" or "light-duty truck" have evolved over the years to more effectively meet the particular missions of the two agencies, namely, mobile source emission control and motor vehicle fuel economy. In neither case, did the agency consider potential tariff classification impact in adopting the criteria.

On the other hand the HTS distinguishes between "motor cars and other motor vehicles principally designed for the transport of persons," dutiable at 2.5% under heading 8703, and "motor vehicles for the transport of goods," dutiable at 25% under heading 8704. These simple and universally recognized classification standards which distinguish between passenger carrying from cargo carrying functions contrast with the complicated fuel economy and environmental specific criteria set forth in the NHTSA and EPA definitions.

NHTSA considers a vehicle to be a light truck if, for example, it transports more than 10 persons, provides temporary living quarters, transports property on an open bed, or is capable of off-highway operation. EPA classifies a vehicle as a light-duty truck, for example, if it is designed primarily for the transportation of persons and has a capacity of more than 12 persons, or if it is capable of off-highway use.

Thus, the NHTSA and EPA criteria for these vehicles have been developed to further the distinct goals of those agencies. Forcing them on the HTS, which was adopted to implement the international harmonization of classification regimes, would destroy the purpose of the HTS as well as arbitrarily and illogically classify vans and other vehicles, which are clearly passenger cars as "motor vehicles for the transport of goods."

Second, the bill would put the United States in violation of its obligations under the General Agreement on Tariffs and Trade (GATT). Under Article II of the GATT, the United States has agreed not to impose a duty any greater than 2.5% on motor vehicles principally designed for the transport of persons. As already noted, by destroying the fundamental distinction between motor vehicles principally designed for the transport of persons and those for the transport of goods, the bill would impose the 25% rate on motor vehicles that are properly classified under heading 8703 at a 2.5% rate.

Countries whose trade in motor vehicles was affected by this GATT violation could demand compensation which could include the imposition of retaliatory duties (if compensation was deemed inadequate) upon imports from the United States. Moreover, such a blatant and significant violation of the GATT would be distinctly harmful to the U.S. negotiating position in the Uruguay Round. At a time when the United States is taking other countries to task for not fulfilling their GATT obligations, it would be particularly unfortunate for the U.S. to become a major delinquent.

Third, by a back-door approach, the bill would impose a 25% duty on a number of passenger vehicles. In short, the bill is nothing more than an outright protectionist effort to make certain imported vehicles more expensive. Doing so will certainly hurt U.S. consumers as well as the dealers that sell those vehicles.

In addition, the demands for compensations or retaliation by U.S. trading partners should the bill be enacted would harm the U.S. industries adversely affected by the tariff concessions or the U.S. exporters adversely affected by retaliation. In short, it would cause precisely the harm sought to be avoided by U.S. trade policy and the trade agreements which the United States is a party.

Accordingly, AIAM urges the Subcommittee to reject the bill as conceptually unsound, violative of the GATT, and economically unjustifiable. This proposal is so fundamentally flawed it does not even warrant the Subcommittee's time at a hearing.

Sincerely yours,

George C. Nield
President

GCN;bat

COMMENTS OF JULIAN C. MORRIS, PRESIDENT
AUTOMOTIVE PARTS & ACCESSORIES ASSOCIATION, INC.

INTRODUCTION

As president of the Automotive Parts & Accessories Association (APAA) I welcome this opportunity to express APAA's support for Representative Kildee's Trade Equity Act, H.R. 3250. By ending the current rampant abuse of our vehicle import duties, Mr. Kildee's Trade Equity Act would contribute greatly to the "concerted campaign," which Mr. Kildee and 89 of his House colleagues recently called on President Bush to initiate in order to "stop the erosion of the traditional domestic supply base of the U.S. auto industry." Central to this campaign, the Members' July 17 letter urged the President to heed the recommendations presented in June 20 Senate testimony by the Auto Parts Advisory Committee (APAC), most notably the industry's calls for the Administration to begin preparation of an antidumping case and a section 301 unfair trade case against Japanese vehicle and parts manufacturers.

"Time is running out for the U.S. auto parts industry," the Members told the President. This conclusion is supported by the fact that American suppliers have less than 1% of the Japanese parts market, traditional domestic suppliers sell less than 20% of the parts used by transplant vehicle assemblers' U.S. operations, and the University of Michigan Office for the Study of Automotive Transportation (OSAT) projections that our nation's parts trade deficit with Japan could more than double from $10.5 billion in 1990 to $22 billion by 1994. Taken together with a projected $24 billion deficit in cars and light trucks the bilateral automotive products trade deficit alone could more than exceed the entire $41 billion U.S. trade deficit with Japan last year, $31 billion of which was in parts and vehicles.

We will review the trade crisis and discuss the importance of making H.R. 3250 an integral part of a comprehensive U.S. policy initiative to resolve this crisis by building trade opportunities for the competitive U.S. suppliers. I would add that America's automotive supplier industry would have enjoyed a global parts trade surplus last year, were it not for the $10.5 billion parts trade deficit with Japan.

APAA AND THE INDUSTRY WE SERVE

APAA's 1,600 members make and sell the entire spectrum of automotive parts, accessories, tools, equipment, chemicals and supplies for both cars and light trucks. APAA's 800 U.S.-based manufacturing members represent a significant share of the universe of 2,000 firms cited by USDOC as being engaged primarily or solely in automotive parts and accessories production for both original equipment (OE) and aftermarket consumption.

Thus, when I speak of APAA as industry's representative, the term refers to this vast number of firms. It does not imply that APAA speaks for every firm in the industry universe nor that APAA is the only group representing the large, diverse U.S. parts industry.

TARIFF CLASSIFICATION CONSISTENCY NEEDED

Mr. Kildee's bill would restore consistency to tariff regulations for minivans and sports utility vehicles, otherwise known as multipurpose vehicles (MPV's). Clearly the current situation is unacceptable. Upon introducing his bill, Mr. Kildee described the problem with the 1989 Treasury classification ruling: "Treasury determined that the classification of a truck will be based on how many doors are on the MPV's and whether minivans have side windows and rear seats. As a result, the same make and model of MPV's and minivans are being imported as both cars and trucks."

One example of the confusing classification system that exists

today is that a 2-door Nissan Pathfinder enters at the 25% truck duty rate, while the 4-door model enters at the low 2.5% car duty rate, even though both models are considered trucks by EPA and DOT. Mr. Kildee's bill would require that vehicles classified as trucks for purposes of EPA or DOT regulations also be classified as trucks for tariff purposes.

Most importantly, the Trade Equity Act would close the existing loophole that allows vehicle importers to manipulate the import duties. According to Mr. Kildee's August 2nd remarks to the House, "this manipulation of our tariff regulations has been estimated to be costing the U.S. Treasury as much as $500 million per year in import duties."

Mr. Kildee's bill would restore the classification system that existed for a brief stint in early 1989, when after an exhaustive rulemaking, the Customs Service issued consistent classification rules for MPV's. Then as now, the impetus for change was the apparent abuse of the system.

In his book Agents of Influence, Dr. Pat Choate explains that Japan's Voluntary Restraint Agreement (VRA) limited Japan's export of cars -- but not trucks -- to the U.S. Dr. Choate states: "The only hitch, there is a big difference in U.S. tariff duties between passenger cars (2.5 percent) and light trucks (25 percent). Throughout the early and mid-1980's, Japanese manufacturers were quite willing to pay higher duties on truck exports; after all, their car export quotas were full." By 1987, however, transplanted Japanese automotive factories in America were producing in significant volume, Choate notes, and Japan's "voluntary quotas" on car exports were going unfilled. He adds: "To exploit the tariff rate differential, the Japanese hit on the idea of reclassifying trucks as cars."

When the Treasury Department overruled the Customs Service in March 1989 and reclassified light truck imports as passenger cars, it was a major concession to the Japanese who fiercely opposed the January 1989 Customs rules. But, as Choate explains, the Administration made yet another important concession:

> It agreed to classify these trucks as passenger cars for the purpose of tariff assessments and then reclassify them as trucks for sale once they were inside the United States. The purpose of this elaborate bureaucratic two-step was to enable the vehicles to meet the Environmental Protection Agency's fuel-efficiency standards, which are lower for trucks than they are for cars. Nor do these vehicles have to meet the federal emissions standards and safety requirements for cars, which are lower for trucks than they are for cars.

U.S.-JAPAN AUTOMOTIVE PRODUCTS TRADE CRISIS

To put the need for the Trade Equity Act, H.R. 3250 in context, the U.S. currently provides a unilateral annual tariff concession worth $500 million to our trade partners--mostly Japan. Yet, a decade of high-level bilateral negotiations have failed to secure fair commercial consideration for competitive American suppliers trying to break into Japanese parts market. APAA believes that enactment of the Trade Equity Act will play an important role in re-prioritizing our nation's objectives. APAA believes we must first secure attainment of our market opening objectives, before we can move on to the matter of reciprocal, rather than unilateral, granting of concessions and other perquisites.

APAA has never desired closed U.S. market. Rather, we have argued since 1980 that the answer to our problems rests in opening Japanese parts procurement and distribution systems to accord American firms and workers the same fair commercial consideration Japanese firms receive here.

APAC, the Commerce Secretary's advisory committee mentioned above, has struck a similar theme in terms of its "overriding goal -- to attain the same free and fair access to Japanese auto parts markets that Japanese suppliers enjoy in the United States market."

The problem is the "bedrock reality of systematic exclusion of outsiders," that Members in their July 17 letter contend have frustrated all of the "U.S. initiatives to open the Japanese automotive sector over the past ten years, including the MOSS and SII talks." The Members described the problem to President Bush as follows:

> The essence of the auto parts problem is that the large Japanese manufacturers discriminate against U.S. parts makers and in favor of traditional Japanese suppliers, many of which are affiliated to their own keiretsu -- families of companies with interlocking directorates, shareholding, and contractual and personal ties.

The desperate need for market access by American firms sales access was underscored in the Commerce Secretary's Auto Parts Advisory Committee (APAC) 1990 interim report to the Secretary, Overview of U.S. Automotive Parts Trade With Japan. Notwithstanding American industry and government's ambitious decade-long campaign chronicled by the panel's report -- including the MOSS talks, Quayle Initiative and the Structural Impediments Initiative (SII), APAC concludes:

> Issues of access to Japanese original equipment (OE) and replacement parts markets have never been more critical than today. The continued strength of competitive American OE producers and the future for competitive U.S. replacement parts, or aftermarket, suppliers depend on sales access to the growing Japanese nameplate share of the U.S. vehicle market being assembled in Japan, the U.S. and third markets.

APAC adds:

> While Japanese nameplate vehicles continue to expand in sales and market share, U.S. passenger car output has declined significantly with few vehicles exported other than to Canada. To offset this decline and more importantly to grow, competitive U.S. firms and workers must supply Japanese parts markets. The urgency of this issue is seen in the ten-fold growth in the U.S.-Japan auto parts trade deficit, from $1 billion in 1980 to $10.5 billion in 1989, which has accompanied vast growth in the number of Japanese nameplate vehicles assembled and sold here. (Emphasis added)

The dramatic shifts in new car market share -- a 33% Japanese nameplate share last year -- are cited by the report prepared for APAC by the University of Michigan Office for the Study of Automotive Transportation (OSAT), The U.S.-Japan Automotive Bilateral 1994 Trade Deficit. Japan's share of the U.S. total light vehicle market (cars and light trucks) was less -- 27.5% -- thanks to the fact that the Big Three have enjoyed greater success in light truck sales, holding Japanese nameplate share in that market segment to 16.3% last year.

The figures for 1991 depict continued Big Three declines, with Automotive News data showing total U.S. car and truck production of 4.7 million units in the first two-thirds of 1991, compared with the meager 5.6 million produced in the same period last year. Indeed, Big Three car production in this period has plunged 12% compared with 1990, and year to date truck production was off 20%. Meanwhile, Japanese transplant producers have increased their total output of cars and tucks by 4% year to date.

If the recent past and present are grim, the OSAT forecasts for 1994 are even darker. Indeed, the "Most Likely" scenario forecast by OSAT for 1994 projects that Japanese nameplate cars will hold 34% of the U.S. total car market with 1.7 million imports and 2.0 million transplant units. Japanese nameplate trucks will increase their share of the total U.S. truck market to 22.2% with 608,000 imports and 500,00 transplant units. By 1994, OSAT sees the Japanese share of U.S. total light vehicle market rising to over 30%, up significantly from their 27.5% share in 1990.

Regarding the strong projected growth in Japanese nameplate light truck sales, OSAT's "Most Likely" scenario "calls for Japanese light trucks to increase from 16% to 22% of the market, based on the expectation that they would pursue this segment very aggressively and successfully." Notwithstanding arguments that the 25% truck tariff and Big Three competitiveness might limit these gains, OSAT argues that "some increase in share is likely, simply because of the importance of this segment in the overall market, and the profits it yields manufacturers."

The OSAT report also states:

> To reach a 22% market share, Japanese light truck exports to the U.S. market will probably increase rather than decrease, and 1994 exports might exceed 600,000. This would be an increase of about 3.5% over 1990 and account for just over 12% of the market. The more competitive orientation in this market is likely to limit the transplants to about 500,000,light truck sales, another 10% of the market. Total Japanese light truck sales and share, then, would be somewhat over 1.1 million light trucks, or about 22% of the market.

TRADITIONAL DOMESTIC PARTS INDUSTRY BEING DISPLACED

Prompt passage of H.R. 3250 is even more important given the projected growth in truck imports. Japan's control of America's automotive industry will continue to tighten as increasing numbers of imported and U.S.-produced Japanese car and truck nameplates largely displace traditional Big Three car and truck output. Unless traditional U.S. suppliers of high value, engineered parts gain meaningful access to Japanese vehicle assembly markets both here and in Japan, the U.S. suppliers' OE sales will decline with every unit of their Big Three customer base lost to Japanese-made imports and heavily Japanese sourced transplant units.

In summary, to offset our industry's Big Three related losses, traditional U.S. suppliers must (1) gain access to Japan's $100 billion parts market and the assembly of more than 12 million cars and trucks per year and (2) have a fair chance to compete for the huge transplant assembler market right in our own competitive industry's backyard.

OSAT's finding that traditional domestic suppliers have less than 20% of the parts market for U.S.-assembled Japanese nameplates led led to another sobering revelation: traditional U.S. suppliers are massively underrepresented in the three major vehicle systems -- engine, transmission and suspension -- which create the mainstay of the critical replacement parts market, the source of our industry's greatest volume and profits.

Transplant sourcing of U.S. products generally has been restricted to lower value added commodity or stock items, where quality U.S. firms have advantages over Japanese counterparts due to shipping considerations, energy intensiveness or commodity scarceness. Except for tires and batteries, none of this type of product lends itself to replacement sales.

Of course, the long track record of American firms' sales of these nonfunctioning auto products and low-value added commodities to transplant assemblers -- and the occasional sale of advanced U.S. products that have no Japanese competitor -- have not been enough to curb the explosive growth of Japan's auto parts trade surplus with U.S., which jumped from $1 billion in 1980 to $10 billion plus in 1989. Nor will it be. Japanese gains are coming much faster now. The parts trade deficit, which exploded ten-fold in ten years, will more than double to $22 billion within four short years.

Nor is there any light at the end of the tunnel, but rather a constant flow of imported parts pulled by two powerful locomotives. The first represents demand by transplanted Japanese OE suppliers and their keiretsu OEM parents, and the second signifies aftermarket service parts demand for the burgeoning number of Japanese nameplate vehicles on the road.

The gravest threat to our industry's future is the importation of the keiretsu system to the United States, described as follows by the July 17 Congressional letter:

> Now more than 300 Japanese suppliers have followed Japan's vehicle makers to North America, reproducing the exclusionary relationships established in their homeland. Japanese transplant manufacturers claim large increases in their purchases of U.S.-made parts, but these turn out to consist largely of increased purchases from their transplanted Japanese suppliers.

COMPREHENSIVE POLICY NEEDED

APAA joins Congressman Kildee in asking "Why is our Treasury Department, with our huge trade deficit, helping foreign importers evade our tariff laws?" Having demonstrated above the consequences of importing keiretsu to the U.S., APAA believes we must pursue a policy capable of beating an end run of the truck tariff by those who might merely import the Japanese parts and parts makers to assemble Japanese nameplate trucks here.

The amendment of section 301 in the 1988 trade act now holds foreign governments for tolerating anticompetitive practices in their countries to the detriment of U.S. exports. Certainly the U.S. must not tolerate anticompetitive practices in our market. If our high level negotiations are to succeed in building new market access for competitive U.S. suppliers, we must negotiate from a position of strength. Swift enactment of H.R. 3250 would provide important proof of our nation's resolve to attain equitable trade by ending the rampant abuse of our tariff laws. And, it also would deny the Japanese keiretsu system a yearly infusion of $500 million in U.S. tariff concessions. Instead of plowing that money into Japanese auto makers' coffers to help them win even more vehicle market share from the Big Three, the tariff revenue will be used to improve America's bottom line and help sustain a vital U.S. truck industry.

All of the policy recommendations enumerated below are pro-competitive, intended solely to gain traditional suppliers their fair shake at supplying Japanese parts markets. As stated above, only when the U.S. succeeds in securing reciprocal market access can we negotiate for mutually beneficial perks. It is noteworthy that these recommendations -- like the full collection of our rightful truck duties being advanced by the Trade Equity Act -- are GATT legal.

To summarize, APAA recommends the following:

(1) Enforce the nation's trade remedy laws. In its policy positions adopted last April 10, APAC specifically called for Administration preparation of self-initiated actions under

section 301 and antidumping law. Concerning its section 301 recommendation, APAC based its policy on "the failure of the Japanese Government to enforce actions to open its markets, to stop anticompetitive actions in auto parts trade, and to promptly comply with its commitments under the Structural Impediments Initiative (SII) and the Market-Oriented Sector Specific (MOSS) agreements which affect auto parts trade."

In calling for the preparation of a self-initiated antidumping action, APAC said that "Based upon information available to APAC members and price surveys, we believe that Japanese dumping of auto parts is rampant."

APAA fully supports prompt Administration implementation of these recommendations. It is essential that we topple the twin pillars of discrimination and predation that support keiretsu.

(2) Legislatively, APAA supports reauthorization of Super 301. APAA also supports reintroduction and enactment of last session's Fair Trade in Auto Parts Act. Its excellent provisions included a mandated self-initiated S. 301 investigation, separate tracking of sales progress made by historically excluded U.S.-based parts makers, and a Justice department review of Japanese transplant practices. APAA seeks one change, that the bill extend the present market opening initiative another five years, through the end of 1998.

(3) DOC should promptly issue new rules reforming the Foreign Trade Zone (FTZ) automotive subzone program. Such reform is needed to end multi-million dollar U.S. tariff concessions that now help each transplant OEM sustain the tight family links that exclude our sales. In addition to urging that DOC resist any weakening of their excellent proposal, APAA has recommended that the final rules include an automatic monitoring feature and stronger evaluation criteria, as urged by the House Government Operations Committee report.

(4) Enforce our income tax laws. In July 1990, the Oversight Subcommittee of the Ways and Means Committee held hearings that Subcommittee Chairman J.J. Pickle said focused specifically on "foreign-owned distributors of automobiles, motorcycles and electronic equipment." At the time IRS Commissioner Fred Goldberg said that foreign corporations operating in the U.S. may have understated their U.S. income taxes by billions of dollars as a result of transfer pricing and other practices.

(5) In negotiating a NAFTA agreement, APAA believes that in addition to removing all tariff and non-tariff barriers to automotive products trade subject to a tight tough rule of origin, the U.S. and its partners also should pursue common competition and investment policies. In particular, it is imperative that NAFTA partners have a common policy approach to unfair trade practices and a shared commitment not to induce the transplanting of the closed keiretsu-like procurement system to North America. Also, for an industry choking on excess car and parts capacity, the last thing we need is for a NAFTA partner to sell itself to non-NAFTA auto makers and suppliers as a duty-free launch pad to the U.S.

CONCLUSION

In conclusion, APAA believes that swift passage of H.R. 3250, the Trade Equity Act, and the other actions recommended, all are vital ingredients of an emerging American counterstrategy to prevent a Japanese strategy combining anticompetitive practices, exclusionary relationships and predatory practices from destroying our industry.

The only way to avert the loss of the American-owned automotive supplier industry is to reform Japanese automotive industry

procurement practices to give traditional U.S. parts makers and their workers the same fair commercial consideration Japanese firms receive here. Given the fair chance to compete, APAA believes that thousands of traditional U.S. automotive suppliers and millions of American workers will meet that challenge with world-class competitive products.

Passage of H.R. 3250 will demonstrate that the United States believes as Representative Kildee states so well: "For too long we have let our international trading partners exploit our market and our laws, it is time to stop the abuse of our import duty fees."

In their letter, Mr. Kildee and his House colleagues told President Bush, "All we need now is the will to act in our own best interest as forcefully as the Japanese have acted in theirs." Enactment of the Trade Equity Act of 1991 will be an important step in demonstrating our will.

APAA looks forward to continuing our work with this Subcommittee and other Members of Congress as well as with Administration leaders towards attainment of our reciprocal market access goal. APAA remains committed to the implementation of automotive policy that recognizes as does Japan's that our nation's strength rests on the foundation of a vital auto parts industry.

STATEMENT OF
STEVE BECKMAN, INTERNATIONAL ECONOMIST
INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICAN (UAW)
before the
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
on
H.R. 3250

September 16, 1991

The UAW strongly supports H.R. 3250. This legislation would clarify the status of imported vehicles that are designed for transporting both goods and people. The controversy surrounding such multipurpose vehicles (MPVs) stems from the large difference in the applied tariff rates for the two categories of vehicles, passenger cars and trucks (2.5 percent for cars and 25 percent for light-duty trucks), included in the Harmonized Tariff Schedule (HTS). H.R. 3250 would end the duplicity of importers that claim the vehicles shipped into the U.S. are cars at the border, but trucks when operating on our roads. We commend Representative Kildee for introducing this bill and urge that the Subcommittee give it full consideration.

The controversy regarding the tariff treatment of MPVs has existed for several years. It reached its peak when the U.S. Customs Service, in converting the U.S. tariff schedule from the old TSUSA to the HTS, ruled that a number of vehicles that had been imported both as cars and as trucks under the TSUSA should be considered trucks under the HTS. Customs found that, because they were designed principally for the transport of goods, MPVs should be in the truck category. These vehicles included the increasingly popular minivans and sport utility vehicles. Their sales expanded rapidly in the 1980s and the number of domestically assembled and imported models available grew as well.

A Customs Service determination of the appropriate tariff classification for MPVs was required because both the truck and car classifications were being used for similar models made by different manufacturers and even for the same model of a single manufacturer. This lack of consistency cried out for attention from those responsible for enforcing the U.S. tariff code. After extensive review of the subject vehicles through consultation with domestic and foreign manufacturers, the Customs Service decided that all of these vehicles were trucks, to be classified in HTS 8704.

The Customs decision was consistent with the classification of MPVs for complying with other federal standards in the U.S. The Department of

Transportation enforces safety and fuel economy standards for motor vehicles. In both cases, there are different standards for passenger cars and for light-duty trucks. Importers of MPVs,in all instances, have considered the truck standard to be the one relevant to these vehicles. The same is true for the vehicle emission standards enforced by the Environmental Protection Agency (EPA). Importers have included their MPVs in the category of trucks here as well for achieving compliance with the standards.

H.R. 3250 would simply require that vehicles complying with the federal standards for trucks rather than cars must be classified as trucks when imported into the U.S. The logic behind this legislation is clear. The companies selling imported MPVs obviously consider them to be trucks when safety, fuel economy and emissions are concerned; they are hypocritical at best and fraudulent at worst in claiming that these vehicles are cars at the border.

The history of the reversal of the Customs Service decision on MPVs by the Treasury Department has been recounted numerous times. The UAW loudly criticized the favorable response of Treasury to foreign pressure in opposition to the Customs decision. In this case, the three U.S.-based producers of similar vehicles and the UAW agreed with the technical agency that has jurisdiction over classification issues. It was political pressure, not rational analysis, that led the Treasury to establish classification criteria allowing the majority of imported MPVs to enter the U.S. as passenger cars. The design-related data collected by the Customs Service was not given significant consideration by Treasury officials, even though the HTS classification for trucks specifies that design is the critical factor.

The producers of many MPVs are in the process of incorporating passenger car safety features into these vehicles. This reflects the fact that many MPVs are used to transport people. Even if the safety standards for passenger cars are met, the fuel economy and emissions standards will remain to differentiate the regulatory compliance of MPVs from cars. H.R. 3250 would identify imported MPVs as trucks at the border until compliance with all relevant regulations for passenger cars are achieved.

The UAW believes that the time has come to clarify U.S. treatment of imported MPVs and to do so based on the criteria set forth by the U S. Customs Service. We support H.R. 3250 as an effective way to accomplish this objective. The integrity of the U.S. tariff code and the U.S. regulatory regime for motor vehicles would both be strengthened by its enactment.

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Congress of the United States
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COMMITTEES:
COMMITTEE ON THE BUDGET
CHAIRMAN:
TASK FORCE ON ECONOMIC POLICY

EDUCATION AND LABOR
CHAIRMAN:
SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

September 16, 1991

The Honorable Sam Gibbons
Chairman, Subcommittee on Trade
Committee on Ways and Means
2204 Rayburn HOB

Dear Mr. Chairman:

Recently, I introduced H.R. 3250, legislation clarifying the U.S. import tariff for multipurpose vehicles (MPVs) and minivans. This legislation has been referred to your subcommittee for consideration.

I introduced H.R. 3250 because I believe the lack of a consistent classification for these hybrid vehicles has allowed foreign importers to circumvent U.S. import duty fees to suit their own needs. While MPVs and minivans are currently classified as trucks for emissions, safety and fuel economy standards (which are less demanding for trucks than for cars), many of these vehicles are currently being imported at the 2.5 percent duty rate for cars instead of the 25 percent duty rate for trucks. This loophole in the U.S. Harmonized Tariff Schedule is allowing foreign importers to evade hundreds of millions of dollars worth of import duty fees annually.

H.R. 3250 simply states that any motor vehicle that is classified as a light-duty truck for emissions standards or a light as a truck for fuel economy standards, shall be classified as a truck for the purpose of U.S. tariff.

While foreign importers should have the opportunity to sell MPVs and minivans in the United States, I do not believe they should be able to shop around for the best classifications for their vehicles in the United States. I respectfully request that your subcommittee give the utmost consideration to H.R. 3250 as soon as possible.

Sincerely,

Dale E. Kildee, M.C.

MOTOR AND EQUIPMENT MANUFACTURERS ASSOCIATION
1325 PENNSYLVANIA AVENUE NW, WASHINGTON, DC 20004

September 13, 1991

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Leonard:

I am writing on behalf of the Motor & Equipment Manufacturers Association (MEMA) in support of H.R. 3250, which would amend interpretive rules in the U.S. Harmonized Tariff Schedule regarding the tariff classification of motor vehicles used in the transport of goods.

Founded in 1904, MEMA is the association which exclusively represents U.S. manufacturers of motor vehicle parts, accessories, and allied products. MEMA members supply both original equipment components and systems to car and truck manufacturers and replacement parts to the aftermarket sales and service industry.

The intent of this legislation is to ensure that minivans and sport utility vehicles classified as "light trucks" for the purposes of the U.S. Government's fuel economy and emission standards programs, also are classified as light trucks dutiable at 25 percent ad valorem, rather than as cars dutiable at 2.5 percent. As light trucks, minivans and sports utility vehicles are subject to less demanding federal emissions, fuel economy, and safety standards than would apply if they were classified as cars.

Currently, importers of such vehicles are able to circumvent the 25 percent U.S. light truck tariff with only modest modifications of their products, such as the substitution of four doors for two in a sports utility model or the addition of side windows and a rear seat in a minivan. These design adjustments may facilitate passenger use of minivans and sports utility vehicles. However, they do not alter the underlying performance, load bearing, or other operating characteristics of these types of vehicles which are more similar to those of comparably sized light pickup trucks.

For these reasons, the Environmental Protection Agency, the Department of Transportation, and the motor vehicle industry itself continue to classify all minivans and sports utility vehicles as trucks rather than cars.

Sponsors of H.R. 3250 have identified a number of specific cases, involving both European (i.e., Range Rover) and Japanese-built products (i.e., Nissan Pathfinder), in which the Treasury Department's controversial light truck classification ruling is being manipulated to circumvent the 25 percent light truck tariff. The U.S. sports utility vehicle market in particular has been affected by Japanese industry product adjustments made since the Treasury's 1989 ruling took effect.

Four-door models classified as cars now dominate a market which only a few years ago consisted primarily of two-door models. With the duty reduction on four-door models from 25.0 to 2.5 percent, imported products have gained share relative to similar U.S.-built products. The result has been reduced sales opportunities for U.S. automotive suppliers, loss of industry jobs, and upward pressure on the huge U.S. deficit in parts and vehicle trade with Japan.

MEMA thanks the Ways and Means Committee for the opportunity to comment on H.R. 3250, whose passage we support.

Sincerely,

Christopher M. Bates

Christopher M. Bates
Director, Policy Analysis
and International Trade

MOTOR VEHICLE MANUFACTURERS ASSOCIATION
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Comments of the Motor Vehicle Manufacturers Association on H.R. 3250, legislation regarding the tariff classification of motor vehicles for the transport of goods

The Motor Vehicle Manufacturers Association of the United States Inc. is the trade association for the U.S. automobile and truck manufacturing industry. MVMA's member companies* manufacture 93% of all motor vehicles produced in the United States.

MVMA welcomes the opportunity to provide comments on H.R. 3250, legislation introduced by Rep. Dale Kildee, entitled the "Trade Equity Act of 1991". We wish to commend Rep. Kildee for his initiative and leadership in bringing this matter to the attention of the Congress and developing a proposal to resolve a situation in U.S. policy which we believe allows imports to classify the same vehicles as passenger cars for tariff purposes and as trucks for compliance with other domestic regulations -- whichever one is to their advantage.

This legislation is particularly timely because of an ongoing controversy over a U.S. Treasury Department reversal of a U.S. Customs Service ruling concerning the classification of certain imported motor vehicles and a challenge to that ruling which is now pending in the U.S. Court of International Trade.

MVMA wishes to provide the Subcommittee with a brief review of developments on this issue which have prompted Rep. Kildee to bring this to the attention of the Subcommittee and explain why additional action by the Committee could be a necessary and constructive development to enforce equity and consistency in U.S. trade and regulatory policy.

* MVMA's member companies include: Chrysler Corporation, Ford Motor Company, General Motors Corporation, Honda of America Manufacturing Inc., PACCAR, Navistar International Corporation and Volvo North American Corporation.

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CHRYSLER CORPORATION • FORD MOTOR COMPANY • GENERAL MOTORS CORPORATION • HONDA OF AMERICA MFG., INC.
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Motor vehicles have been an integral component of the U.S. economic and social fabric since the beginning of this century. Because these products are directly and indirectly related to so many of the functions of American life in which the federal government has an interest -- transportation, taxation, energy, environment, public health and safety -- they are among the most heavily regulated products in the American economy. Numerous government agencies, including the Departments of Transportation, Treasury, Commerce, Transportation, Environmental Protection Agency, and others have authority to impose regulations which have an effect on motor vehicle design and production.

The issue which has caused the controversy being addressed by Rep. Kildee's legislation concerns the classification by the U.S. Customs Service, for import and tariff purposes, of a relatively new motor vehicle product sector, commonly referred to as Multi-Purpose Vehicles (MPVs). Over the past decade, U.S. producers have pioneered the development and marketing of this extremely popular product niche, which includes 4-wheel drive sports utility vehicles (e.g. Chrysler Corporation's Jeep Cherokee, Ford Motor Company's Explorer, and General Motor's Corporation's Chevrolet Blazer) as well as minivans such as (e.g. Chrysler's Dodge Caravan, the Ford Aerostar, and the GM Astro/Safari). All of these multi- and dual purpose vehicles are designed to transport goods or perform variety of tasks. Many are also fitted with interiors which accommodate passengers, but all of them share many common truck-like characteristics.

The U.S. Customs Service is the U.S. agency which has the responsibility, among others, to interpret, classify , and regulate products imported into the United States to conform with U.S. trade laws and procedures. Under the tariff classification system enacted by the Congress (the Harmonized Tariff System which superseded the Tariff System of the United States on January 1,1989) motor vehicles are classified in one of two categories: HS 8703, "vehicles principally designed for the transport of passengers" with an applied U.S. tariff of 2.5% and HS 8704, "vehicles for the transport of goods", subject to a U.S. tariff of 25%. Less technically we would commonly refer to these categories as 'cars' and 'trucks'.

Under the interpretation of the rulings in effect during the 1980s under prior law, the Customs Service based its classification of vehicles on the presence or absence of a rear seat, providing Customs authorities with a relatively simple visual method of classifying these products. As Japanese producers began to seek a larger share of the new market for multipurpose vehicles, they imported the vast majority of these vehicles into the U.S. classified, properly in our view,as light trucks. Coincidentally, this also allowed Japanese manufacturers to escape the restrictions in effect under Japan's Voluntary Export Restraint (VER), which only applied to the export of automobiles. As imports of sports utility vehicles and vans increased dramatically in the late 1980s, U.S. producers began to notice a dramatic shift in importation practices. By 1987, more than 80% of these vehicles imported from Japan were being imported declared not as trucks, but were being imported as passenger cars and thus subject to only for a 2.5% import duty.

Had these products miraculously changed fundamental character? No, what had changed were market conditions. By the late 1980s,most Japanese producers had established U.S. passenger car assembly facilities in the United States and, therefore, were less dependent on direct exports from Japan. This resulted in significantly lower export shipment restraints under the VER program. Japanese exporters then began to use a loophole in U.S. Customs rulings to shift the classification of thousands of these vehicles from 'trucks' to 'passenger cars' and evade the higher 25% tariff on imported light trucks.

When the Customs Service became aware of this practice of existing rulings, which was resulting in a substantial loss of revenues (estimated at $500 million per year), it demonstrated its clear concern by twice requesting official comment from the public and private sector concerning the proper classification of multipurpose vehicles.

Following extensive investigation and, having reviewed the testimony of all parties, on January 4, 1989, the Customs Service issued a ruling which determined that multipurpose vehicles because of their obvious truck origin, design and performance characteristics could not be considered "principally designed for the transport of passengers" and should all be appropriately classified under tariff heading HS8704, as light trucks.

MVMA and its member companies strongly supported this decision, believing that it was the correct and obvious interpretation, closed a loophole that was not originally intended and restored consistency to the implementation of U.S. trade and regulatory practice.

Then, in an unprecedented action, the Treasury Department overruled the Customs Service classification decision and, in a Solomon-like decision, determined that two-door sports utility vehicles and vans without rear seats would be classified as trucks, while four-door sports utility vehicles and vans with rear seats would be classified as passenger vehicles.

The obvious lack of consistency in this ruling is apparent to any observer who looks at a two-door or four-door Nissan Pathfinder, or Isuzu Trooper. The rapid response in the market should be no surprise as well. While previous to this decision, 80% of the imported MPVs were configured with two-doors, by 1991 the percentages had reversed, shifting almost the entire market of the imported MPV vehicles to four-door configuration.

Underscoring the inherent contradictions in this decision, Nissan, Toyota, Isuzu, and Suzuki, Mazda, Range Rover and other producers have petitioned these same vehicles be classified as trucks, for purposes of meeting U.S. emissions, fuel economy (CAFE), and safety standards (NHTSA) as well as for exemption from liability to the gas guzzler and the newly mandated

luxury tax.

Rep. Kildee has properly recognized that such inconsistencies are a serious cause for concern because of the adverse effect they can have on U.S. producers, but also because of the implication that importers can use the U.S. regulatory regime to secure undue market advantage, H.R. 3250 proposes to restore at least a minimum standard of equity and consistency in the application of U.S.trade rules by requiring that any vehicle which is classified as a light truck under U.S. vehicle emissions standards (under section 523.5 of title 49 of the Code of Federal Regulations) or U.S. Corporate Average Fuel Economy (CAFE) standards (under section 86.082-2 of title 40 of the Code of Federal Regulations) also be classified as a truck for import purposes. This would be implemented by amending the Additional United States notes to the appropriate chapter of the Harmonized tariff Schedule of the United States.

MVMA believes that this legislation highlights a trade practice which remains contradictory and unresolved. Consideration of this issue by the Subcommittee and the Congress is also relevant because the issue is currently pending before the U.S. Court of International Trade. In that case, Nissan Motor Co. has filed suit to challenge the Treasury's 1989 ruling. Nissan, however, seeks a ruling that ALL multipurpose vehicles, not just those configured with four-doors, be classified as passenger cars for purposes of importation. Since this issue is obviously still a matter of ongoing dispute, the views of the Congress are both warranted and necessary.

The Motor Vehicle Manufacturers Association of the U.S. urges the Committee to take additional action on this matter by conducting hearings on H.R. 3250 in order to give full public consideration to the impact of this practice on U.S. firms and their workers and to emphasize the need for equity and consistency in applying U.S.regulations. We would be happy to provide the Subcommittee with any documentation necessary to further explain the facts which support Rep. Kildee's legislation and review any other policy questions which may arise in connection with this legislation.

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